

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Frank Arnold, Claimant vs. Peter Restivo, Parker Bromley Ltd., Dain Rauscher, Inc., J.B. Oxford and Company, Inc., and GunnAllen Financial, Inc., Respondents.

Case Number: 99-01157

Hearing Site: Louisville, Kentucky

REPRESENTATION OF PARTIES

Claimant, Frank Arnold, "Arnold", hereinafter referred to as "Claimant", represented himself.

Respondent, Peter Restivo, "Restivo", represented himself.

Respondent, Parker Bromley Ltd., "Parker Bromley", was not represented and did not make any appearance in these proceedings.

Respondent, Dain Rauscher, Inc., "Dain Rauscher", was represented by Will S. Montgomery, Esq., Jenkins & Gilchrist, of Dallas, Texas.

Respondent, J.B. Oxford and Company, Inc., "J.B. Oxford", was represented by Scott G. Monson, Esq., of Beverly Hills, California.

Respondent, GunnAllen Financial, Inc., "GunnAllen", was represented by Robert K. Savage, Esq., of Tampa, Florida.

CASE INFORMATION

Statement of Claim filed on or about: March 11, 1999

Claimant, Arnold, signed the Uniform Submission Agreement: March 4, 1999

Statement of Answer filed by Respondent, Restivo, on or about: July 8, 1999

Respondent, Restivo, signed the Uniform Submission Agreement: July 7, 1999

Statement of Answer filed by Respondent, Dain Rauscher, on or about: June 30, 1999

Respondent, Dain Rauscher, did not sign the Uniform Submission Agreement

Statement of Answer filed by Respondent, J.B. Oxford, on or about: July 1, 1999

Albert R. Laubenstein, President of J.B. Oxford, signed the Uniform Submission Agreement: June 30, 1999

Statement of Answer filed by Respondent, GunnAllen, on or about: June 18, 1999

Robert K. Savage, Representative for Respondent, GunnAllen, signed the
Uniform Submission Agreement: June 15, 1999

Respondent, Parker Bromley, did not file a Statement of Answer

Respondent, Parker Bromley, did not sign the Uniform Submission Agreement

CASE SUMMARY

Claimant asserted the following causes of action: fraud; unsuitability; and breach of fiduciary duty. The causes of action relate to transactions involving AID securities.

Unless specifically admitted in their Answers, Respondents, with the exception of Parker Bromley, which did not file an Answer, denied the allegations made in the Statement of Claim.

Respondent, Restivo, asserted the following affirmative defenses: ratification; assumption of the risk; estoppel; waiver; contributory negligence; and failure to mitigate.

Respondent, Dain Rauscher, asserted the following affirmative defense: failure to state a cause of action upon which relief may be granted.

Respondent, J.B. Oxford, asserted the following affirmative defenses: waiver; estoppel; ratification; assumption of the risk; and failure to state a cause of action upon which relief may be granted.

Respondent, GunnAllen, asserted the following affirmative defenses: failure to state a cause of action upon which relief may be granted; estoppel; ratification; waiver; laches; lack of proximate causation; and windfall.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$13,750
Punitive Damages	\$20,000

Respondents, with the exception of Parker Bromley, which did not file an Answer, requested that the Claims against them be dismissed with prejudice.

Respondents Dain Rauscher, J.B. Oxford, and GunnAllen, also requested unspecified costs and attorneys' fees.

Claimant verified receipt of \$9000 dollars as payment of settlements with Dain Rauscher, J.B. Oxford, and GunnAllen. This payment reduced the amount of compensatory damages in controversy from \$13,750 to \$4,750. Therefore, the relief requested from remaining Respondents at the time of the hearing was \$4,750 in compensatory damages, as well the punitive damages originally requested.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Dain Rauscher, J.B. Oxford, and GunnAllen, filed Motions to Dismiss prior to the hearing. The Panel deferred ruling on all Motions to Dismiss.

Prior to the hearing, Claimant settled his Claims against Respondents Dain Rauscher, J.B. Oxford, and GunnAllen.

Upon review of the file and the representations made by the Claimant, the undersigned Panel determined that Respondent Parker Bromley has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel rules in favor of Claimant and awards \$4,750 in compensatory damages, together with interest at the Kentucky State legal rate, accruing from June 13, 2000 until time of payment, against Respondents Peter Restivo and Parker Bromley, Ltd., jointly and severally.

The Panel further awards to Claimant \$20,000 in punitive damages, assessed against Respondent, Parker Bromley, Ltd., separately and not jointly with any other Respondent.

Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$120

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firms are: Dain Rauscher, J.B. Oxford, and GunnAllen.

Member surcharge = \$ 800

Pre-hearing process fee = \$ 600

Hearing process fee = \$1,000

Parker Bromley is no longer a member firm with the NASD. Therefore, the above fees were waived as to Parker Bromley.

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$400 = \$ 400

Pre-hearing conferences: December 2, 1999 1 session

Two (2) Hearing sessions x \$400 = \$ 800

Hearing Dates June 13, 2000 2 sessions

Total Forum Fees = \$1,200

The Panel has assessed \$600 of the forum fees to Claimant, Frank Arnold.
The Panel has assessed \$600 of the forum fees jointly and severally to all Respondents. This includes Restivo, Parker Bromley, Dain Rauscher, J.B. Oxford, and GunnAllen Financial.

Fee Summary

1. Claimant, Arnold, be and hereby is solely liable for:

Initial Filing Fee = \$ 120

Forum Fees = \$ 600

Total Fees = \$ 720

Less payments = \$ 520

Balance Due NASD Regulation, Inc. = \$ 200

2. Respondent, Dain Rauscher, be and hereby is solely liable for:

Member Fees	= \$ 800
Pre-hearing process fee	= \$ 600
<u>Hearing process fee</u>	= \$ 1,000
<u>Total Fees</u>	= \$ 2,400
<u>Less payments</u>	= \$ 1,400
Balance Due NASD Regulation, Inc.	= \$ 1,000

3. Respondent, J.B. Oxford, be and hereby is solely liable for:

Member Fees	= \$ 800
Pre-hearing process fee	= \$ 600
<u>Hearing process fee</u>	= \$ 1,000
<u>Total Fees</u>	= \$ 2,400
<u>Less payments</u>	= \$ 1,400
Balance Due NASD Regulation, Inc.	= \$ 1,000

3. Respondent, GunnAllen, be and hereby is solely liable for:

Member Fees	= \$ 800
Pre-hearing process fee	= \$ 600
<u>Hearing process fee</u>	= \$ 1,000
<u>Total Fees</u>	= \$ 2,400
<u>Less payments</u>	= \$ 1,400
Balance Due NASD Regulation, Inc.	= \$ 1,000

3. Respondents, Restivo, Parker Bromley, Dain Rauscher, J.B. Oxford, and
GunnAllen Financial, be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 600
Balance Due NASD Regulation, Inc.	= \$ 600

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature(s)

W. Allen Schmitt, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Jane D. Hollis, Esq.
Public Arbitrator

Signature Date



Rudy Vincenti
Industry Arbitrator

7/14/00

Signature Date

Date of Service (For NASD office use only)

Member Fees	= \$ 800
Pre-hearing process fee	= \$ 600
<u>Hearing process fee</u>	<u>= \$ 1,000</u>
Total Fees	= \$ 2,400
<u>Less payments</u>	<u>= \$ 1,400</u>
Balance Due NASD Regulation, Inc.	= \$ 1,000

3. Respondent, J.B. Oxford, be and hereby is solely liable for:

Member Fees	= \$ 800
Pre-hearing process fee	= \$ 600
<u>Hearing process fee</u>	<u>= \$ 1,000</u>
Total Fees	= \$ 2,400
<u>Less payments</u>	<u>= \$ 1,400</u>
Balance Due NASD Regulation, Inc.	= \$ 1,000

3. Respondent, GunnAllen, be and hereby is solely liable for:

Member Fees	= \$ 800
Pre-hearing process fee	= \$ 600
<u>Hearing process fee</u>	<u>= \$ 1,000</u>
Total Fees	= \$ 2,400
<u>Less payments</u>	<u>= \$ 1,400</u>
Balance Due NASD Regulation, Inc.	= \$ 1,000

3. Respondents, Restivo, Parker Bromley, Dain Rauscher, J.B. Oxford, and
GunnAllen Financial, be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$ 600</u>
Balance Due NASD Regulation, Inc.	= \$ 600

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature(s)

W. Allen Schmitt, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Jane D. Lollis
Jane D. Lollis, Esq.
Public Arbitrator

July 14, 2000
Signature Date

Rudy Vincenti
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

Member Fees	= \$ 800
Pre-hearing process fee	= \$ 600
<u>Hearing process fee</u>	<u>= \$ 1,000</u>
Total Fees	= \$ 2,400
<u>Less payments</u>	<u>= \$ 1,400</u>
Balance Due NASD Regulation, Inc.	= \$ 1,000

3. Respondent, J.B. Oxford, be and hereby is solely liable for:

Member Fees	= \$ 800
Pre-hearing process fee	= \$ 600
<u>Hearing process fee</u>	<u>= \$ 1,000</u>
Total Fees	= \$ 2,400
<u>Less payments</u>	<u>= \$ 1,400</u>
Balance Due NASD Regulation, Inc.	= \$ 1,000

3. Respondent, GunnAllen, be and hereby is solely liable for:

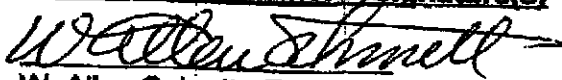
Member Fees	= \$ 800
Pre-hearing process fee	= \$ 600
<u>Hearing process fee</u>	<u>= \$ 1,000</u>
Total Fees	= \$ 2,400
<u>Less payments</u>	<u>= \$ 1,400</u>
Balance Due NASD Regulation, Inc.	= \$ 1,000

3. Respondents, Restivo, Parker Bromley, Dain Rauscher, J.B. Oxford, and
GunnAllen Financial, be and hereby are jointly and severally liable for:

Forum Fees	= \$ 600
Balance Due NASD Regulation, Inc.	= \$ 600

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature(s)



W. Allen Schmitt, Esq.
Public Arbitrator, Presiding Chair

7/14/00
Signature Date

Jane D. Lollie, Esq.
Public Arbitrator

Signature Date

Rudy Vincenti
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)