

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between

Name of Claimant

Igor Vizelberg

Case No. 99-02475

Names of Respondents

Lakeside Trading a/k/a Russell Investment  
Thomas Griswold Russell  
J.B. Oxford & Company

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**REPRESENTATION OF PARTIES**

For Claimant: Alan R. Sacks, Esq. of Sacks & Raines, New Orleans, LA.

For Respondent J.B. Oxford & Company ("JBO"): Cynthia M. Schliendl, Esq. of Miller Milove & Kob, San Diego, CA.

Respondent Lakeside Trading a/k/a Russell Investment ("Lakeside") did not appear.

Respondent Thomas Griswold Russell ("Russell") did not appear.

**CASE INFORMATION**

Statement of Claim filed on or about: May 28, 1999.

Claimant signed the Uniform Submission Agreement: August 16, 1999.

Statement of Answer filed by Respondent JBO on or about: September 10, 1999.

Respondent JBO signed the Uniform Submission Agreement: September 14, 1999.

Respondents Russell and Lakeside did not file Statements of Answer (see "Other Issues").

Respondents Russell and Lakeside did not file executed Uniform Submission Agreements (see "Other Issues").

**CASE SUMMARY**

Claimant alleged that Respondents Russell and JBO are liable for all losses sustained by Claimant as a result of Russell's unauthorized trades and JBO's failure to reverse the transactions. Further, Claimant alleged Respondents are liable for Securities Exchange Act Section 10(b) violations, breach of contract, violation of mandate, conversion, and negligence.

Unless specifically admitted in its Answer, Respondent JBO denied the allegations made in the Statement of Claim and alleged the following: JBO did not violate any laws, regulations, or industry practices and standards relevant to the claims herein. Claimant entered into a customer-broker relationship with Respondent Lakeside where he maintained his account. Pursuant to the fully disclosed correspondent agreement with Lakeside, JBO cleared transactions pursuant to instructions received from Lakeside. JBO had extremely limited legal and regulatory obligations to Claimant which relate solely to the mechanical record keeping functions of clearance and settlement of various transactions in the accounts of its correspondent broker, Lakeside. None of those obligations were breached in this matter.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of \$97,429.92, loss of profits, additional compensatory damages of \$3,600.00, interest, punitive damages, attorneys' fees, and all costs of this arbitration.

Respondent JBO requested that the Statement of Claim be dismissed and for such other relief as the arbitrators deemed just and proper.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On or about June 12, 2000, Respondent JBO filed a motion to dismiss. Claimant filed a response to the motion on or about June 19, 2000. Respondent JBO filed its reply on or about June 22, 2000. On or about July 6, 2000, the Panel denied Respondent JBO's motion to dismiss.

During the evidentiary hearing in this matter, Respondent JBO made an ore tenus motion that the Panel reconsider its denial of Respondent JBO's motion to dismiss. Claimant opposed the motion to reconsider. Following argument by counsel, the Panel denied Respondent JBO's motion for reconsideration.

Respondents Russell and Lakeside did not attend the evidentiary hearing in this matter. Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators determined that Respondents Russell and Lakeside have 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 Respondents present, in accordance with the NASD-DR Code of Arbitration Procedure (the "Code").

Respondents Russell and Lakeside did not file with NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

The parties present at the hearing 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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents JBO, Russell, and Lakeside are liable, jointly and severally, and shall pay to Claimant compensatory damages in the sum of \$97,000.00 plus interest at the rate of nine percent (9%) per annum accruing from the date of the Award until the date of payment of the Award.

Respondents JBO, Russell, and Lakeside are liable, jointly and severally, and shall pay to Claimant the sum of \$300.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution, Inc.

Claimant's requests for punitive damages and attorneys' fees are denied.

Any other requests for relief not specifically addressed herein are denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 300.00
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#### **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, JBO and Lakeside, are parties.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

#### **Adjournment Fees**

Adjournments requested during these proceedings:

July 10, 2000, adjournment by Respondent JBO.	= Fee waived by the Panel
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### **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:

Two (2) Pre-hearing sessions with Panel x \$1,125.00	= \$2,250.00
Pre-hearing conferences: January 20, 1999 1 session	
June 28, 2000 1 session	
Two (2) Hearing sessions x \$1,125.00	= <u>\$2,250.00</u>
Hearing Date: July 11, 2000 2 sessions	
Total Forum Fees	= \$4,500.00

The Panel has assessed the total forum fees of \$4,500.00 jointly and severally to Respondents Russell, Lakeside, and JBO.

### **Fee Summary**

Claimant be and hereby is solely liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
Total Fees	= \$ 300.00
<u>Less payments</u>	= \$ 300.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent Lakeside be and hereby is solely liable for:

<u>Member Fees</u>	= \$4,600.00
Total Fees	= \$4,600.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$4,600.00

Respondent JBO be and hereby is solely liable for:

Member Fees	= \$4,600.00
Total Fees	= \$4,600.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$4,600.00

Respondents Russell, Lakeside, and JBO be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= <u>\$4,500.00</u>
Total Fees	= \$4,500.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$4,500.00

All balances are due and payable to NASD Dispute Resolution, Inc.

**Concurring Arbitrators' Signatures**

/s/

\_\_\_\_\_  
Clayton J. Borne, III, Esq.  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

/s/

\_\_\_\_\_  
William D. Hawkland, Jr., Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

/s/

\_\_\_\_\_  
John C. Anjier, Esq.  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

August 17, 2000

Date of Service (For NASD-DR office use only)

Concurring Arbitrators' Signatures



Clayton J. Borne, III, Esq.  
Public Arbitrator, Presiding Chair

August 14, 2000  
Signature Date

William D. Hawkland, Jr., Esq.  
Public Arbitrator

Signature Date

John C. Anjier, Esq.  
Industry Arbitrator

Signature Date

Date of Service (For NASD-DR office use only)

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Clayton J. Borne, III, Esq.  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

  
William D. Hawkland, Jr., Esq.  
Public Arbitrator

8/15/00  
Signature Date

\_\_\_\_\_  
John C. Angier, Esq.  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD-DR office use only)


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Clayton J. Borne, III, Esq.  
Public Arbitrator, Presiding Chair

Signature Date

William D. Hawkland, Jr., Esq.  
Public Arbitrator

Signature Date

  
John C. Anjier, Esq.  
Industry Arbitrator

8/14/00  
Signature Date

Date of Service (For NASD-DR office use only)