

**Award**  
**FINRA Office of Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimant  
Robert Dekas

Case Number: 16-03687

vs.

Respondent  
Oppenheimer & Co., Inc.

Hearing Site: Chicago, Illinois

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Nature of the Dispute: Customer vs. Member

This case was decided by a majority-public panel.

**REPRESENTATION OF PARTIES**

For Claimant Robert Dekas ("Claimant"): Martin P. Unger, Esq., Wexler Burkhart Hirschberg & Unger, LLP, Garden City, New York.

For Respondent Oppenheimer & Co., Inc. ("Respondent"): Donald A. Corbett, Esq., Oppenheimer & Co., Inc., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: December 20, 2016.  
Claimant signed the Submission Agreement: December 12, 2016.

Statement of Answer filed on or about: February 24, 2017.  
Respondent signed the Submission Agreement: February 27, 2017.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of fiduciary duty, misrepresentation, suitability, unauthorized trading, failure to supervise, negligence, and violation of FINRA Rules. The causes of action related to Claimant's allegations that Respondent executed unauthorized trades in Claimant's accounts and invested Claimant's accounts in unsuitable investments, including IShares Russell 2000 Index puts and calls, Proshares Trust PSHS Short S&P 500 ETFs, and the Global Chartist Fund, LLC.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested compensatory damages in excess of \$2,000,000.00 in, punitive and exemplary damages in excess of \$1,500,000.00, attorneys' fees, expert fees, costs, pre-award interest, and that all arbitration costs be assessed against Respondent.

In the Statement of Answer, Respondent requested that Claimant's Statement of Claim be dismissed, that it be awarded its costs and expenses, that all references to this matter be expunged from the registration records of non-parties James Forsythe and Carter Worth maintained by the Central Registration Depository ("CRD"), and that it be awarded other appropriate relief.

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

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

Respondent filed a Motion in Limine on or about March 5, 2018. The Panel denied Respondent's Motion in Limine on the record at the hearing.

The Panel considered Respondent's request for expungement of the registration records of non-parties James Forsythe and Carter Worth as a part of the in-person recorded evidentiary hearing conducted in this matter.

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

1. Respondent is liable for and shall pay to Claimant the sum of \$800,000.00 in compensatory damages.
2. Respondent's request for expungement of CRD records made on behalf of non-parties James Forsythe and Carter Worth is denied.
3. Other than forum fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter.
4. Any and all claims for relief not specifically addressed herein, including punitive and exemplary damages, expert fees, and attorneys' fees, are denied.



The Panel has assessed \$9,100.00 of the hearing session fees to Claimant.

The Panel has assessed \$9,100.00 of the hearing session to Respondent.

All balances are payable to FINRA Office of Dispute Resolution and are due upon receipt.

**ARBITRATION PANEL**

Richard A. Berman	-	Public Arbitrator, Presiding Chairperson
Michael S. Matek	-	Public Arbitrator
Anthony P. Pecora	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument, which is my award.

**Concurring Arbitrators' Signatures**

/s/ Richard A. Berman  
Richard A. Berman  
Public Arbitrator, Presiding Chairperson

06/04/18  
Signature Date

/s/ Michael S. Matek  
Michael S. Matek  
Public Arbitrator

06/04/18  
Signature Date

/s/ Anthony P. Pecora  
Anthony P. Pecora  
Non-Public Arbitrator

06/01/18  
Signature Date

06/04/18  
Date of Service (For FINRA Office of Dispute Resolution office use only)

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Public Arbitrator, Presiding Chairperson

June 4, 2018  
Signature Date

\_\_\_\_\_  
Michael S. Matek  
Public Arbitrator

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

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Non-Public Arbitrator

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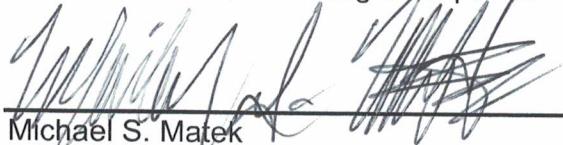
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Non-Public Arbitrator

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