

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Michael R. Hembury and Susan L. Hembury (Claimants) vs. Oppenheimer & Co. Inc., and Stanley Wong (Respondents)

Case Number: 04-00171

Hearing Site: New York, New York

Nature of the Dispute: Customers vs. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimants Michael R. Hembury ("M. Hembury") and Susan L. Hembury ("S. Hembury") hereinafter collectively referred to as ("Claimants"): Kara Cavallo, Esq., and Robert E. DiNardo, Esq., Jacobowitz & Gubits, LLP, Walden, NY.

Respondents Oppenheimer & Co. Inc. ("Oppenheimer") and Stanley Wong ("Wong") hereinafter collectively referred to as ("Respondents"): Eric Shames, Esq., Oppenheimer & Co. Inc., New York, NY. Previously represented by Tamarah M. Francois, Esq., Oppenheimer & Co. Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: January 8, 2004.

M. Hembury signed the Uniform Submission Agreement: January 22, 2004.

S. Hembury signed the Uniform Submission Agreement: January 22, 2004.

Joint Statement of Answer filed by Respondents on or about: May 4, 2004.

Oppenheimer signed the Uniform Submission Agreement: May 10, 2004.

Wong signed the Uniform Submission Agreement: May 13, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; breach of fiduciary duty; misrepresentation; and fraud. The causes of action relate to the investment in two annuities -- American Skandia LifeVest and Equitable Accumulator.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$49,000.00, attorneys' fees, costs and disbursements.

Respondents requested that the Statement of Claim be dismissed in its entirety with prejudice, fees, costs, and such other relief as the Panel may deem appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable for and shall pay to the Claimants \$15,260.00 in compensatory damages.
2. Respondents are jointly and severally liable for and shall pay to the Claimants \$15,075.00 in attorneys' fees pursuant to First International Equity Corp v. Haughton, 842 F. Supp. 105 (1994).
3. Respondents are jointly and severally liable for and shall pay to the Claimants \$340.50 as travel related expenses incurred as a result of the cancellation of the October 3, 2005 hearing.
4. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 175.00
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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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Oppenheimer & Co. Inc. is a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 1,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

April 19 and 20, 2005, adjournment by Claimants	Waived
June 28 and 29, 2005, adjournment by Respondents	Waived
October 3 and 4, 2005 adjournment by Respondents	Waived

Forum Fees and Assessments

The Arbitrator has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Decision on discovery-related motion on the papers with (1) arbitrator @ \$200.00	= \$ 200.00
Claimant submitted one discovery-related motion	

Three (3) Pre-hearing session with a single arbitrator @ \$450.00 per session	= \$ 1,350.00
Pre-hearing conferences:	
August 3, 2004 1 session	
November 5, 2004 1 session	
January 7, 2005 1 session	

Two (2) Hearing sessions @ \$450.00 per session	= \$ 900.00
Hearing Date: December 28, 2005 2 sessions	
Total Forum Fees	= \$ 2,450.00

1. The Arbitrator has assessed \$1,225.00 of the forum fees, jointly and severally, against the Claimants.
2. The Arbitrator has assessed \$1,225.00 of the forum fees, jointly and severally, against the Respondents.

Fee Summary

1. Claimants are liable for:

Initial Filing Fee	= \$ 175.00
Forum Fees	= \$ 1,225.00
Total Fees	= \$ 1,400.00
Less payments	= \$ 625.00
Balance Due NASD Dispute Resolution	= \$ 775.00
2. Oppenheimer is solely liable for:

Member Fees	= \$ 2,625.00
Total Fees	= \$ 2,625.00
Less payments	= \$ 2,625.00
Balance Due NASD Dispute Resolution	= \$ 0.00
3. Respondents are jointly and severally liable for:

Forum Fees	= \$ 1,225.00
Total Fees	= \$ 1,225.00

<u>Less payments</u>	= \$	<u>0.00</u>
Balance Due NASD Dispute Resolution	= \$	1,225.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATOR

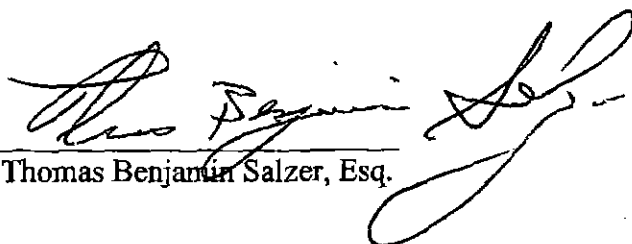
Thomas Benjamin Salzer, Esq.

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Presiding Chairperson, Public Arbitrator

Arbitrator's Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



Thomas Benjamin Salzer, Esq.

Jan. 18, 2006
Signature Date

January 19, 2006

Date of Service (For NASD Dispute Resolution use only)