

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimants

Leroy and Diane Jacobsen

and

Case Number: 04-02227

Hearing Site: Milwaukee, Wisconsin

Name of Respondent

Craig A. Rosenberg

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**NATURE OF DISPUTE**

Customer v. Associated person.

**REPRESENTATION OF PARTIES**

Leroy and Diane Jacobsen or ("**Claimants**") were represented by Sean Lanphier, Esq., of Mallery & Zimmerman, S.C., located in Milwaukee Wisconsin.

Craig A. Rosenberg ("**Rosenberg**") or ("**Respondent**") was represented by David Freniere, Esq., of Linsco/Private Ledger Corp., located in Boston MA.

**CASE INFORMATION**

The Statement of Claim was filed on or about March 29, 2004. The Submission Agreement of Claimant was signed on or about March 16, 2004.

Statement of Answer was filed by Respondent Rosenberg on or about May 24, 2004. The Submission Agreement of Respondent Rosenberg was signed on or about May 24, 2004.

**CASE SUMMARY**

Claimants asserted the following causes of action :negligence; violations of federal and state securities laws, NASD Rules and NYSE Rules; common law misrepresentations.

The causes of action relate to the sale of stocks including: Janus Overseas Growth Fund;

Seligman Communications and Information fund; Aim Select Fund: the Oppenheimer Global Growth and Income Fund.

Unless specifically admitted in its Answer, Respondent Craig A. Rosenberg denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants fail to state a claim upon which relief can be granted; Respondent did not breach a fiduciary duty to Claimants or fail to disclose material facts to them; all investment recommendations were suitable; Rosenberg's action; were not negligent and did not violate any NASD rules; Claimants' Claims are barred by equity including the doctrines of waiver, estoppel, and ratification; and, at all times Respondent acted in good faith.

### **RELIEF REQUESTED**

Claimant requested an award of compensatory damages in the amount of \$209,000.00; plus interest, reasonable attorneys fees, and costs.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees. Respondent also requested that this matter be expunged from the CRD records.

### **OTHER ISSUES CONSIDERED & 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. In either case, the parties have agreed to receive conformed copies of the award while the originals remain on file with NASD Dispute Resolution ("NASD").

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing an the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimants Leroy and Diane Jacobsen's claims against Respondent Craig A. Rosenberg are dismissed in their entirety with prejudice;
- 2.) The Panel denied Respondent Craig A. Rosenberg's request that all references to this action be expunged from the records that are maintained by the Central Registration Depository, (CRD);
- 3.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this

matter; and,

4.) That any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

### **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 = \$ 300.00

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firm is Linsco Private Ledger Corp.

Member surcharge = \$1,700.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$2,750.00

#### **Forum Fees and Assessments**

The Arbitration 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 \$1,125.00	= \$1,125.00
Pre-hearing conference: September 15, 2004 1 session	
Four (4) Hearing sessions x \$1,125.00	= \$4,500.00
Hearing Dates: February 15, 2005 2 sessions	
February 16, 2005 2 sessions	
<b>Total Forum Fees</b>	<b>= \$5,625.00</b>

The Arbitration Panel has assessed \$2,812.50 of the forum fees to Claimants Leroy and Diane Jacobsen jointly and severally.

The Arbitration Panel has assessed \$2,812.50 of the forum fees to Respondent Craig A. Rosenberg.

**Fee Summary**

Claimants are jointly and severally is liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 3,112.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 1,687.50

Respondent Linsco/Private ledger Corp. is liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent, Rosenberg liable for:

Forum Fees	= \$ 2,812.50
Total Fees	= \$ 2,812.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 2,812.50

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

**ARBITRATION PANEL**

William B. Ross - Public Arbitrator, Presiding Chair  
John K. Notz, Jr., Esq. -Public Arbitrator  
Frank E. Harvey - Non-Public Arbitrator

Concurring Arbitrators:

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William B. Ross  
Public Arbitrator, Presiding Chair

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Signature Date

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John K. Notz, Jr., Esq.  
Public Arbitrator

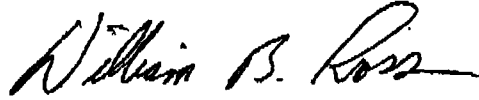
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Frank E. Harvey  
Non-Public Arbitrator

MARCH 10, 2005  
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Signature Date

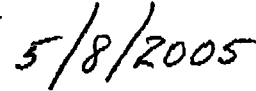
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**Concurring Arbitrators:**



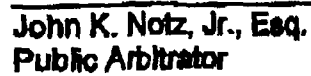
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**William B. Ross**  
**Public Arbitrator, Presiding Chair**



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**Signature Date**



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**John K. Notz, Jr., Esq.**  
**Public Arbitrator**

**Signature Date**



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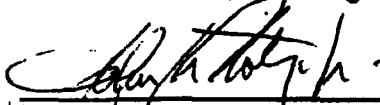
**Frank E. Harvey**  
**Non-Public Arbitrator**

**Signature Date**

**Date of Service (For NASD office use only)**

Concurring Arbitrators:

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William B. Ross  
Public Arbitrator, Presiding Chair



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John K. Notz, Jr., Esq.  
Public Arbitrator

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Frank E. Harvey  
Non-Public Arbitrator

3/8/2005  
Date of Service (For NASD office use only)

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Signature Date

3/8/2005  
Signature Date

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