

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Oppenheimer & Co. Inc., Claimant v. Jonathan A. Nguyen, Respondent

Case Number: 04-07517

Hearing Site: Los Angeles, California

Nature of the Dispute: Member v. Associated Person

REPRESENTATION OF PARTIES

For Claimant:

Andrew J. Kohler, Esq.
Oppenheimer & Co. Inc.
New York, New York

CASE INFORMATION

Statement of Claim filed: October 26, 2004

Claimant's Uniform Submission Agreement signed: October 26, 2004

CASE SUMMARY

Claimant alleged default on a promissory note.

RELIEF REQUESTED

Claimant's Initial Statement of Claim requested \$84,462.40 in principal, interest at the rate of 14% per annum from September 21, 2004 until paid, and costs, including attorney's fees.

On May 19, 2005, pursuant to the order of the Panel, Claimant filed an Amended Statement of Claim pursuant to the NASD Code of Arbitration Procedure Rule 10328(b). The Amended Statement of Claim requested \$84,462.40 in principal, interest at the rate of 10% per annum from September 21, 2004 until paid, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Jonathan A. Nguyen did not file with the NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

On December 30, 2004, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On March 24, 2005, Claimant made a Motion for Entry of Default against Respondent Jonathan A. Nguyen. Claimant's Motion requested that the Panel appoint a single arbitrator to render a decision on the papers. After due deliberation, the Panel granted the motion, vacated the hearing date, and appointed the Chairman of the Panel, Sheldon M. Jaffe, as the sole arbitrator to handle further proceeding to prove up the default.

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

FINDINGS

The Arbitrator finds as follows:

- 1) The records of the NASD in this matter indicate that Respondent Jonathan A. Nguyen ("Respondent Nguyen") was appropriately served with the Statement of Claim, various other pleadings, and requests for and notices of pre-hearing conferences.
- 2) Respondent Nguyen has not filed an Answer to the Statement of Claim or appeared at any pre-hearing conferences.
- 3) By Order of the Arbitrators dated May 11, 2005, the default of Respondent Nguyen was declared and the Chairman of the Panel, Sheldon M. Jaffe, was appointed as the sole arbitrator to handle further proceedings to prove up default.
- 4) The Declaration of Claimant's counsel, Eric J. Shames, detailing the calculation of damages sought by Oppenheimer & Co., Inc. ("Oppenheimer") was received by the NASD on May 20, 2005. The Declaration has been reviewed and has been found in order.

AWARD

After considering the pleadings and evidence presented, the Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Nguyen is liable to and shall pay Claimant Oppenheimer \$84,462.40 due on the Promissory Note executed by Respondent Nguyen in favor of Claimant Oppenheimer (the "Promissory Note").
- 2) Respondent Nguyen is liable to and shall pay Claimant Oppenheimer \$5,507.37 constituting 10% California statutory interest on the Promissory Note.
- 3) Respondent Nguyen is liable to and shall pay Claimant Oppenheimer \$1,000.00 as reimbursement for filing fees.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$1,000.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Oppenheimer & Co. Inc. is a party and the following fees are assessed:

Member Surcharge	= \$1,100.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$1,700.00</u>
Total Member Fees	= \$5,300.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

Two (2) Pre-hearing conference sessions with the Panel @ \$750.00/session	= \$1,500.00
Pre-hearing conferences: March 2, 2005 1 session	
March 16, 2005 1 session	

<u>Fee for Decision on the Papers</u>	<u>= \$ 300.00</u>
Total Forum Fees	= \$1,800.00

The Arbitrator waived the forum fees, in the amount of \$750.00, for the March 2, 2005 pre-hearing conference.

The Arbitrator assessed the remaining balance of the forum fees, in the amount of \$1,050.00, to Respondent Jonathan A. Nguyen.

Fee Summary

1. Claimant Oppenheimer & Co., Inc. is charged with the following fees and costs:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 3,550.00
Total Fees	= \$ 4,550.00
Less payments	= \$(5,300.00)
Refund Due from NASD Dispute Resolution	= \$ (750.00)

2. Respondent Jonathan A. Nguyen is charged with the following fees and costs:

Forum Fees	= \$ 1,050.00
Less payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 1,050.00

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

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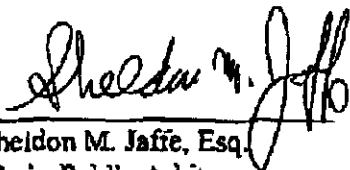
ARBITRATION PANEL

Sheldon M. Jaffe, Esq.

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Public Arbitrator, Presiding Chair

Arbitrator's Signature


Sheldon M. Jaffe, Esq.
Chair, Public Arbitrator

June 10, 2005
Signature Date

June 10, 2005
Date of Service