

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Dean Heinemann (Claimant) v. Oppenheimer & Co., Inc. (Respondent)

Case Number: 05-00989

Hearing Site: New York, New York

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

Claimant Dean Heinemann ("Claimant") hereinafter referred to as "Claimant": Douglas R. Hirsch, Esq., Sadis & Goldberg, LLC, New York, NY.

Respondent Oppenheimer & Co., Inc. ("Respondent"), hereinafter referred to as "Respondent": Steven E. Mellen, Esq., Winget Spadafora & Schwartzberg, LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: February 24, 2005.

Claimant signed the Uniform Submission Agreement: February 18, 2005.

Answer to the Statement of Claim and Counterclaim filed by Respondent on or about: May 4, 2005.

Respondent did not sign a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract; fraud, and negligent misrepresentation.

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

Respondent asserted the following causes of action in its Counterclaim: breach of the fiduciary duty of loyalty; breach of contract; and, breach of covenant of good faith and fair dealing.

Unless specifically admitted in its Answer to the Counterclaim, Claimant denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$250,000.00, punitive

damages, interest, attorneys' fees and costs.

Respondent requested that Claimant's claims be dismissed in their entirety.

Respondent requested unspecified compensatory damages, costs and attorney's fees.

Claimant requested that Respondent's claims be dismissed in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and having answered the claim is bound by the determination of the Panel on all issues submitted.

On or about March 20, 2006, arbitrator Jeremy S. Bell withdrew from the Panel and the parties agreed to proceed with two arbitrators.

On or about March 28, 2006, the parties entered into a confidential settlement with the Respondent and submitted this Stipulated Award for the Panel's review.

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

AWARD

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. The parties' claims are dismissed in their entirety.
2. The Panel recommends the expungement of the termination comment contained in Section 3 of the Form U5 filed with CRD by Respondent Oppenheimer & Co. (CRD 249) on behalf of Claimant Dean A. Heinemann (CRD 2338634). The existing termination comment (i.e., "Constructive resignation: failed to appear at the office for a period of time") is to be expunged. The expungement recommendation is being made based on the defamatory nature of the information contained in Claimant's CRD record maintained by the NASD Central Registration Depository (CRD).
3. Any and all relief not specifically addressed herein, including punitive damages, 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	= \$ 300.00
Counterclaim filing fee	= \$ 500.00

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 persons at the time of the events giving rise to the dispute. Accordingly, Oppenheimer & Co., Inc., is a party.

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

Forum Fees and Assessments

The Panel 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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing conference session with Panel @ \$1,125.00 per session = \$1,125.00

Pre-hearing conference: July 12, 2005	1 session	
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Total Forum Fees		\$1,125.00

1. The Panel has assessed \$562.50 of the forum fees to the Claimant.
2. The Panel has assessed \$562.50 of the forum fees to the Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 562.50
<hr/> Total Fees	= \$ 862.50
Less payments	= \$ 1,785.90
<hr/> Refund Previously Issued to the Claimant	= \$ 923.40

2. Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 500.00
Member Fees	= \$ 5,200.00
Forum Fees	= \$ 562.50
<hr/> Total Fees	= \$ 6,262.50
Less payments	= \$ 6,262.50
<hr/> Balance Due NASD Dispute Resolution	= \$ 0.00

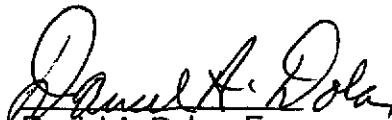
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Daniel A. Dolan, Esq.,	-	Non-Public Arbitrator, Presiding Chairperson
Robert Miller	-	Non-Public Arbitrator

Concurring Arbitrators' 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.


Daniel A. Dolan, Esq.

Non-Public Arbitrator, Presiding Chairperson


Signature Date

Robert Miller
Non-Public Arbitrator

Signature Date

July 31, 2006
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL


Daniel A. Dolan, Esq.,	-	Non-Public Arbitrator, Presiding Chairperson
Robert Miller	-	Non-Public Arbitrator

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Daniel A. Dolan, Esq.
Non-Public Arbitrator, Presiding Chairperson

Signature Date



Robert Miller
Non-Public Arbitrator

7/21/06
Signature Date

July 31, 2006
Date of Service (For NASD Dispute Resolution use only)