

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Robert Leach

Claimant

vs.

Oppenheimer & Co., Inc.,
Oppenheimer Capital Corporation,
Quest for Value Dual Purpose Fund,
Inc., Arthur K. Ward and Kurt W.
Dunard

Respondents

AWARD

CASE NO. 88-00496

SUMMARY OF ISSUES

This case was filed on February 16, 1988. Claimant alleged: 1) Securities Exchange Act fraud; 2) violation of Section 12(2) of the Securities Act; 3) violation of Sections 25401 and 25503 of the California Corporations Code; 4) fraud and deceit; 5) breach of fiduciary duty; 6) negligent misrepresentations; 7) professional malpractice; and 8) violation of the Racketeering Influence and Corrupt Organization Act. Said allegations were made in reference to investments made on behalf of Claimant in the Quest for Value Dual Purpose Fund, Inc., a diversified, closed-end, "dual purpose" investment company. Respondents denied the claims and stated that at all times Claimant's account was handled properly by Respondents and in accordance with applicable rules, regulations and law. Respondents' specific allegations included allegations that Claimant is a sophisticated investor, that the transactions in Mr. Leach's account were not unsuitable and were consistent with his objectives, and that Claimant's account was not churned. Respondents alleged eleven affirmative defenses.

DAMAGES AND RELIEF REQUESTED

Claimant requested: 1) damages in the amount of \$256,250.00 on Counts I through III and VI through VII, and three-fold damages of \$768,750.00 on Count VIII; 2) interest on the principal sum according to proof; 3) punitive damages; 4) lost profits on the stock sold to purchase Quest for Value Dual Purpose Fund; 5) disgorgement of commissions; 6) costs of suit; 7) attorneys' fees; and 8) such other relief as the arbitrators may deem proper. Respondents prayed for an arbitration award in their favor, for

costs of suit, and for such other and further relief as the arbitrators deem proper.

DAMAGES AND RELIEF AWARDED

On March 13, 14, 15 and 29, 1990 in San Francisco, California, the undersigned arbitrators heard the controversy in six sessions between the parties as set forth in submissions to arbitration signed by Claimant on February 4, 1988, by Respondent Oppenheimer & Co., Inc. on March 13, 1990, by Respondent Dunard on March 13, 1990 and by Respondent Ward on March 13, 1990. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. Each and every claim of Claimant is dismissed.
2. The parties shall each bear their respective costs including attorneys' fees.
3. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. ("NASD") Code of Arbitration Procedure:
 - a. the NASD shall retain the \$1,000.00 filing fee previously deposited by the Claimant; and
 - b. Respondents are assessed forum fees in the amount of \$5,000.00, to be paid directly to the National Association of Securities Dealers, Inc., and said liability is joint and several.

ARBITRATORS CONCURRING

DATE SERVED: 05/14/90

ARBITRATORS DISSENTING

James M. Knowles
James Knowles
