

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

George P. Ballas and Ann T. Ballas

Claimants

vs.

Oppenheimer and Company, Inc.  
Chester Rothman

Respondents

AWARD

Case #89-00122

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 23, 1989 Claimants George P. Ballas and Ann T. Ballas alleged that the recommendations made by the Respondents were unsuitable for the Claimants given their stated investment objectives and the Respondents were negligent in making these recommendations to the Claimants. Claimants further alleged the Respondents breached their contract with Claimants in that Respondents' conduct was incompetent, unfair and fraudulent. At the hearing the Claimants withdrew their claims based on churning, common law fraud and withdrew their claim for damages under the RICO statute.

Respondents Oppenheimer and Company, Inc. and Chester Rothman maintained the choice of investment strategies was entirely suitable to the Claimants' financial circumstances, was in accordance with their stated speculative intent, was consistently ratified and was never complained about. Respondents Oppenheimer and Company, Inc. and Chester Rothman further maintained Oppenheimer and Company, Inc. acted in good faith and maintained a proper system of supervision and internal control over its personnel and further maintained Claimants have failed to identify a single specific instance of any negligence or fraudulent conduct by Respondents Oppenheimer and Company, Inc. or Chester Rothman or any act that constitutes a breach of contract.

RELIEF REQUESTED

Claimants requested damages of \$665,945.05 and pre-judgment interest and for such other further relief as the arbitrators deems just, fair and reasonable.

Respondent Oppenheimer & Company, Inc. requested dismissal of claim.

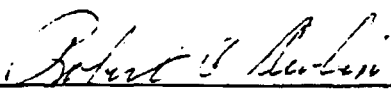
Respondent Chester Rothman requested dismissal of claim.


AWARD

On September 17 and 18, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants, George P. Ballas and Ann T. Ballas on January 20, 1989 and by Respondent Oppenheimer and Company, Inc. on May 25, 1989 and by Respondent Chester Rothman on June 15, 1989. The hearing was conducted in Cleveland, Ohio and consisted of four (4) hearing sessions. 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. Prior to the commencement of the first hearing session the arbitration panel was advised that the Claimants George P. Ballas and Ann T. Ballas had reached a settlement agreement with the Respondent Chester Rothman.
2. The claims by the Claimants be and hereby are dismissed in all respects;
3. The parties shall each bear their respective costs including attorneys' fees;
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$1000.00 filing fee previously deposited by the Claimants. In addition, the Claimants George P. Ballas and Ann T. Ballas be and hereby are liable and shall pay to the National Association of Securities Dealers, Inc. the sum of \$3000.00 to represent forum fees.

ARBITRATORS SIGNATURES

  
Robert C. Devlin, Esq.

  
Michael A. Wypasek, Esq.

  
Lester T. Miller