

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Sandra Barnow, a.k.a.  
Sandra Kahn

Claimant

vs.

Oppenheimer & Co., Inc.,  
Bear Stearns & Co., Inc. and  
Stuart Godin

Respondents

AWARD

CASE NO. 89-00562

SUMMARY OF ISSUES

Claimant alleged that Respondents breached their fiduciary duty to her, failed to supervise account executive Godin, and defrauded her by placing 75% of her irreplaceable assets in unsuitable managed commodities funds, by placing her remaining funds in a stock account and trading excessively in unsuitable options and misrepresenting to Claimant the high risk of loss involved with trading options. Claimant further alleged Respondent Godin misrepresented the suitability and risk potential of certain limited partnership investments which he recommended and which were not Oppenheimer products.

Respondents denied Claimant's allegations and asserted that Claimant was a sophisticated investor with previous securities investment experience who wanted to trade aggressively in speculative investments. Respondents also maintained that Claimant discussed with Respondent Godin the investment strategy prior to trading, that Claimant signed numerous risk disclosure statements and other documents affirming her acceptance of risk.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages, amended at hearing, of \$167,000 plus interest at 10% against Respondents Oppenheimer & Co., Inc. and Stuart Godin. Claimant requested damages of \$26,000 plus interest against Respondent Godin only. Claimant also requested punitive damages in the amount of \$2,000,000.00 and an award of costs of arbitration.

Respondents requested dismissal of all claims and an award of costs of arbitration.

### PROCEDURAL SUMMARY

This claim was filed with the National Association of Securities Dealers, Inc. ("NASD") on February 21, 1989. On June 20 and 21, 1990, the undersigned arbitrators heard the controversy between the parties pursuant to submissions to arbitration signed by Claimant on January 27, 1989, by Respondent Oppenheimer & Co., Inc. on April 10, 1989, and by Respondent Stuart Godin on April 11, 1989. The hearing was conducted in Los Angeles, California and lasted four sessions.

### DAMAGES AND RELIEF AWARDED

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 as follows:

Respondents Oppenheimer and Godin are jointly and severally liable for and shall pay to Claimant the sum of One Hundred Thousand Dollars and Zero Cents (\$100,000.00) only.

2. Respondent Godin is individually liable for and shall pay to Claimant the sum of Twenty-Six Thousand Dollars and Zero Cents (\$26,000.00) only.

3. The claim for punitive damages is dismissed.

4. The parties shall each bear their respective costs including attorneys' fees.

5. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$1,000.00 filing fee previously deposited by the Claimant. Respondents Oppenheimer and Godin are jointly and severally assessed \$4,000.00 in forum fees, as follows:

- a. \$3,000.00 payable to the National Association of Securities Dealers, Inc.; and
- b. \$1,000.00 payable to the Claimant as reimbursement for the previously deposited filing fee.

OTHER ISSUES

The claim against Bear Stearns & Co., Inc. was settled prior to the hearing. Bear Stearns & Co., Inc. was then dismissed as a Respondent in this matter.

PRESIDING ARBITRATORS

DATE SERVED: 07/20/90

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Aaron Fenton

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Robert Sether

  
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Diana G. Davis