

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)	
Daniel J. Sweeney,)	
dba Sweeney Lumber Company)	AWARD
Claimant)	
vs.)	CASE #89-02553
)	
- Oppenheimer & Co., Inc.)	
Jeffrey O'Braskey, and)	
Thomas Ortwein)	
Respondents)	

SUMMARY OF ISSUES

Claimant alleged Respondent O'Braskey failed to follow his instructions to monitor the common stock MiniScribe and to sell his 10,000 shares as soon as possible if the price hit \$3/share. Claimant alleged that Respondent O'Braskey failed to have someone else in his office monitor this stock when he was out of the office as agreed. Claimant further alleged Respondent Ortwein failed to supervise O'Braskey, that all Respondents were negligent, breached their fiduciary duty to Claimant, breached the covenant of good faith and fair dealing, breached their oral contract with Claimant, and acted fraudulently.

Respondents denied all allegations, and asserted the agreement with Claimant was merely to contact him when the stock price hit \$3/share. Respondents agreed O'Braskey was out of the office when MiniScribe hit \$3/share, and that Claimant was cognizant of these facts because he called the Oppenheimer office, but did not enter an order to sell before trading in the stock was unexpectedly halted for several hours and the subsequent drop in the stock price.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages of \$11,870.00, plus interest, costs of arbitration and attorney's fees.

Respondents requested dismissal of Thomas Ortwein as a Respondent and dismissal of all claims against the other Respondents.

PROCEDURAL SUMMARY

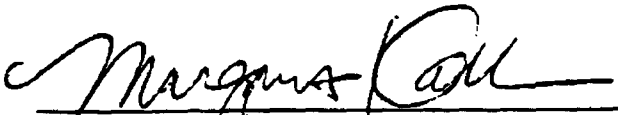
This claim was filed with the NASD on September 13, 1989. On July 17, 1990, the undersigned arbitrator heard the controversy between the parties pursuant to submissions to arbitration signed by Claimant on September 11, 1989, by Respondent Oppenheimer on January 4, 1990, by Respondent O'Braskey on January 4, 1990, and by Respondent Ortwein on January 3, 1990. The hearing was conducted in San Francisco, California and lasted two 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:

1. All Claims against Thomas Ortwein are dismissed.
2. Respondents Oppenheimer & Co. and O'Braskey are jointly and severally liable and shall pay to Claimant the sum of \$5,746.36 inclusive of interest.
3. The parties shall each bear their respective costs including attorneys' fees.
4. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall refund the \$750.00 filing fee previously deposited by the Claimant, (including overpayment of \$350.00). Respondents Oppenheimer & Co. and O'Braskey are assessed forum fees of \$800.00. This assessment is joint and several.

DATE SERVED: 09/12/90


Margaret Kallman