

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

In the Matter of the Arbitration Between )

Charles M. Bagley, Jr., M.D. )

Nancy Bagley, JTWROS )

Claimants )

vs. )

Oppenheimer & Co., Inc. )

Donald B. Zweibel, Jr. )

Respondents )

AWARD

NASD # 90-00623

**SUMMARY OF ISSUES**

Claimants alleged Respondents made unauthorized purchases and sales of common stock in their account while they were out of the country.

Respondents denied the allegations of wrong-doing. They asserted that the parties had previously agreed to a settlement of the issues between them, and asked that the settlement be enforced.

**DAMAGES AND RELIEF REQUESTED**

Claimant requested damages of \$18,741.68 plus interest from November 13, 1889.

Respondents requested dismissal of all claims.

**DAMAGES AND RELIEF AWARDED**

This claim was filed with the NASD on March 1, 1990. On November 8, 1990, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on February 26, 1990, by an authorized representative of Oppenheimer on May 30, 1990, and by Donald Zwiebel on June 7, 1990. The hearing was conducted in Seattle, Washington and lasted one (1) session. 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. Respondents are liable for and shall pay to Claimants the aggregate sum of \$14,801.50 inclusive of interest, apportioned as follows:

- a) Oppenheimer and Co., Inc. is solely liable for the payment of \$5,639.82.
  - b) Oppenheimer and Co. and Donald Zweibel are jointly and severally liable for the payment of the remaining \$9,161.68 in accordance with their understanding of the responsibility between themselves regarding the December, 1989 settlement proposal.
  - c) These amounts are in addition to the \$1,258.32 previously delivered to Claimants by Oppenheimer.
- 2. Claimants shall retain for their own account the 1500 shares of Harcourt Brace Jovanovich common stock purchased in October, 1989.
  - 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 retain the \$400.00 filing fee previously deposited by the Claimant.

**OTHER ISSUES**

None.

DATE SERVED: 12/20/90

**ARBITRATORS CONCURRING**

  
Kenneth W. Johnson