

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

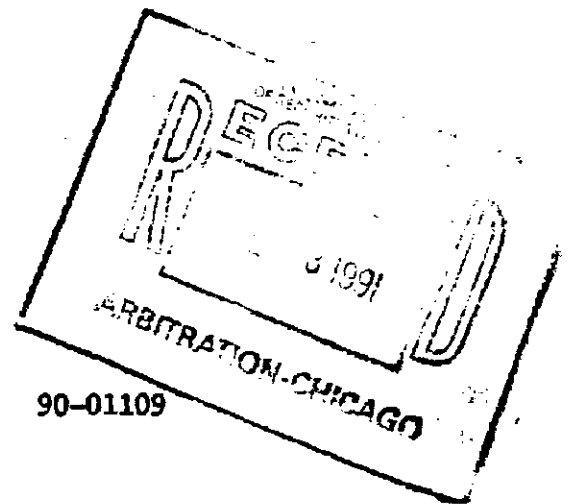
In the Matter of the Arbitration Between

Name of Claimants

David & Carol Swartz

Name of Respondents

Oppenheimer & Co., Inc. and
Lee Amster



90-01109

REPRESENTATION

David Swartz and Carol Swartz were represented by Matthew R. Gawey, Esq. of Matthews, Carlton & Stein, Dallas, Texas.

Oppenheimer & Co., Inc. and Lee Amster were represented by Joel Held, Esq. of Mankoff, Hill, Held & Goldberg, Dallas, Texas.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about April 18, 1990, David and Carol Swartz ("Claimants") alleged that Lee Amster ("Amster") engaged in unauthorized commodity trading and gave false reports concerning the status and activity of their accounts.

In their joint Statement of Answer filed with the NASD on or about January 25, 1991, Oppenheimer & Co., Inc. ("Oppenheimer") and Amster (collectively as "Respondents") denied the allegations. Respondents also stated that Amster spoke to David Swartz prior to each and every trade in the commodities account as well as his joint securities account and that David Swartz account and that David Swartz was well aware of the transactions which occurred in the accounts.

RELIEF REQUESTED

Claimants requested an award in the amount of \$29,008.00 as compensatory damages, punitive damages in the amount of \$70,992.00, attorneys fees, interest and costs.

Respondents requested that the Statement of Claim be dismissed in its entirety and that they be awarded reasonable costs.

PROCEDURAL MATTERS

On Thursday, June 6, 1991 in Dallas, Texas during a hearing lasting a total of two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on April 11, 1990 by Claimants David and Carol Swartz on January 10, 1991 by Marcos A. Pagan, III on behalf of Respondent Oppenheimer & Co., Inc. and on January 25, 1991 by Respondent Lee R. Amster.

The parties have agreed that the Award in this matter may be executed in counterpart and to receive conformed copies of the award while the original(s) remain on file with the NASD.

AWARD

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

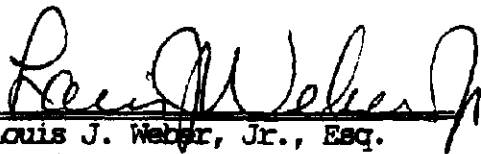
1. Respondents Oppenheimer & Co., Inc. and Lee Amster shall be and hereby are jointly and severally liable for and shall pay to the Claimants David and Carol Swartz the sum of Fourteen Thousand Five Hundred Four Dollars (\$14,504.00) which sum includes interest;

2. Respondents Oppenheimer & Co., Inc. and Lee Amster shall be and hereby are jointly and severally liable for and shall pay to the Claimants David and Carol Swartz the sum of Eight Thousand Dollars (\$8,000.00) as attorneys fees. In making an award of attorneys fees, the panel has considered the law of the State of Texas and the arguments of the parties;

3. Respondents shall bear their own costs, expenses and attorneys fees incurred in this matter; and

4. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the hearing session deposit in the amount of \$350.00 previously deposited with the NASD by the Claimants. Respondents shall be jointly and severally liable for and shall pay to the NASD the sum of \$1,000.00 and the NASD shall retain the postponement fee previously deposited with the NASD by the Respondents as forum fees.

Concurring Arbitrators Signature


Louis J. Weber, Jr., Esq.
Presiding Chair
Public Arbitrator

Dated: 7/8/91

Harold L. Sutherland
Public Arbitrator

Dated: _____

Kenneth D. Bingham
Industry Arbitrator

Dated: _____


Date Served by NASD: _____

4. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the hearing session deposit in the amount of \$350.00 previously deposited with the NASD by the Claimants. Respondents shall be jointly and severally liable for and shall pay to the NASD the sum of \$1,000.00 and the NASD shall retain the postponement fee previously deposited with the NASD by the Respondents as forum fees.

Concurring Arbitrators Signature

Louis J. Weber, Jr., Esq.
Presiding Chair
Public Arbitrator

Dated: _____



Harold L. Sutherland
Public Arbitrator

Dated: 1-2-91

Kenneth D. Bingham
Industry Arbitrator

Dated: _____

Date Served by NASD: _____

4. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the hearing session deposit in the amount of \$350.00 previously deposited with the NASD by the Claimants. Respondents shall be jointly and severally liable for and shall pay to the NASD the sum of \$1,000.00 and the NASD shall retain the postponement fee previously deposited with the NASD by the Respondents as forum fees.

Concurring Arbitrators Signature

Louis J. Weber, Jr., Esq.
Presiding Chair
Public Arbitrator

Dated: _____

Harold L. Sutherland
Public Arbitrator

Dated: _____

Kenneth D. Bingham

Kenneth D. Bingham
Industry Arbitrator

Dated: 7-1-91

Date Served by NASD: _____