



N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, New York 10004

In the Matter of the Arbitration Between

Name of Claimant

H. Loeb Corporation

vs

90-02446

Name of Respondents

Oppenheimer & Co., Inc.  
Robert W. Reidy

REPRESENTATION

For Claimant: Richard M. Gelb, Esq. of Gelb & Gelb.

For Respondents: Eugene L. Small, Esq., in-house counsel.

CASE INFORMATION

Statement of Claim filed: September 05, 1990.

Amended Statement of Claim filed: April 23, 1991.

Reply to Respondents' Counterclaim filed: January 07, 1991.

Claimant's Submission Agreement signed on: July 24, 1990

Respondents' Joint Statement of Answer and Counterclaim filed: December 27, 1990

Respondents' Answer to Amended Statement of Claim filed: June 05, 1991.

Respondent's, Oppenheimer & Company, Inc., Submission Agreement signed on: December 27, 1990.

Respondent's, Robert W. Reidy, Submission Agreement signed on: December 28, 1990.

HEARING INFORMATION

Hearing Dates/Hearing Sessions: May 31, 1991 - One pre-hearing session.

June 11, 1991 - Two sessions.

June 12, 1991 - Two sessions.

July 03, 1991 - Two sessions.

Hearing Location: Boston, Massachusetts.

### CASE SUMMARY

Claimant alleges that in reliance on Reidy's guarantee that losses in Loeb's account would not exceed fifteen percent (15%), Claimant opened a corporate account and a pension account with Respondents. Claimant alleges that Respondents, in contravention of Loeb's stated investment objectives, engaged in risky and unsuitable transactions, including risk arbitrage and violated the 15% loss agreement of the corporate account. Claimant contends that Reidy's conduct was in violation of Section 10(b) and Rule 10b-5 of the Exchange Act, NASD Rules of Fair Practice, Article III, Sections 2, 1 and 18 and NYSE Rules 405 and that Oppenheimer failed to supervise Reidy. Claimant further contends that their actions constituted: violations of M.G.L. c.110A; breach of contract; fraud; negligence, breach of fiduciary duty; and violations of the Massachusetts Consumer Protection Act, M.G.L. c. 93A. Claimant further contends that Respondents churned the accounts and that Reidy was advised that Loeb wanted the account to be handled in an extremely conservative manner.

Respondents deny liability and deny the allegation of the 15% guarantee. Respondents contend that the investments were suitable and assert six affirmative defenses. Respondents deny the allegation of churning and contend that Claimant's stated objective was to make money trading stocks. Oppenheimer interposes a Counterclaim for \$13,000.00 debit balance including interest.

Claimant denies liability for the debit balance and contends that the debit balance is due to Respondents' misconduct. Claimant also asserts eleven affirmative defenses.

### RELIEF REQUESTED

Claimant requests that the panel award it \$64,509.90 in compensatory damages, treble damages, together with interest and costs including reasonable attorney's fees and dismiss the Counterclaim.

Respondents request that the Statement of Claim be dismissed in its entirety; that Oppenheimer's Counterclaim be sustained in its entirety; and that the costs of this proceeding be assessed against Claimant.

### AWARD

The parties have agreed that the Award in this matter may be executed in counterpart copies. The parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

After considering the pleadings, the testimony and the evidence presented at the hearing, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. All claims asserted by the Claimant against the Respondents are denied in their entirety;
2. Claimant is liable to Respondent, Oppenheimer & Co., Inc., and shall pay Respondent, Eleven Thousand Dollars and Zero Cent (\$11,000.00);
3. No interest is awarded on the above sum;

#### OTHER ISSUES

Claimant filed an Amended Statement of Claim and moved amend its claim. Respondents filed papers opposing the amendment. The panel allowed Claimant to amend its claim and allowed Respondent to file responsive pleadings.

#### FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, Forum Fees are assessed as follows:

1. The NASD has received \$200.00 non-refundable filing fee and \$750.00 hearing session deposit previously made by the Claimants and shall retain said amount and apply it to the amount assessed;
2. The NASD has received \$500.00 non-refundable filing fee and \$600.00 hearing session deposit previously made by the Respondents and shall retain said amount and apply it to the amount assessed;
3. Forum fees for six (6) hearing sessions in the amount of \$4,500.00 at \$750.00 per session are assessed and shall be equally by the parties;
4. Forum fees for one (1) pre-hearing session in the amount of \$300.00 is assessed as indicated below;
4. Claimant is assessed a \$200.00 non-refundable filing fees;
5. Claimant is further assessed \$2,400.00 in forum fees;
6. Thus, the total amount due by Claimant is \$1,650.00;
7. Respondent, Oppenheimer & Co., Inc., is assessed \$500.00 non-refundable filing fee;
8. Respondent, Oppenheimer & Co., Inc., is further assessed \$2,400.00 in forum fees;
9. Thus, the total amount due by Oppenheimer is \$1,800.00.

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATION PANEL

Philip M. Giordano, Esq.  
Leonard H. Golder, Esq.  
Elwynn J. Miller

Chairperson - Public  
Public  
Industry

Concurring Arbitrator's Signature

  
Leonard H. Golder, Esq.

Date of Decision: \_\_\_\_\_

Dated by the NASD: September 5, 1991

ARBITRATION PANEL

Philip M. Giordano, Esq.  
Leonard H. Golder, Esq.  
Elwynn J. Miller

Chairperson - Public  
Public  
Industry

Concurring Arbitrator's Signature

  
Philip M Giordano

Date of Decision:

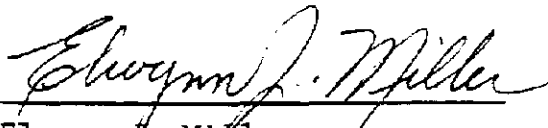
Dated by the NASD: September 5, 1991

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