

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Oppenheimer & Co., Inc.

No. 90-03074

Name of Respondents

American Glass Industries, Inc.  
Robert Lewandowski

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REPRESENTATION OF PARTIES

For Claimant: Joseph F. Keenan, Esq. of Bochat & Keenan, P.C.

Respondents American Glass Industries, Inc. and Robert Lewandowski failed to appear at the hearing.

CASE INFORMATION

Statement of Claim filed: October 31, 1990.

Claimants' Submission Agreement signed on: October 23, 1990.

Claimant's Section 25 (b) motion to preclude filed: October 25, 1991.

Respondents American Glass Industries, Inc. and Robert Lewandowski failed to file submissions to arbitration, and have also failed to Answer the Statement of Claim.

HEARING INFORMATION

Hearing date: April 28, 1992. One (1) session.

Hearing Location: Chicago, Illinois.

### **CASE SUMMARY**

Claimant Oppenheimer & Co., Inc. ("Claimant") alleged failure to pay debit balances in the accounts of Respondents Robert Lewandowski ("Lewandowski") and American Glass Industries, Inc. ("AGI"). Claimant alleged that Respondents Lewandowski and AGI opened accounts in December of 1989, and January of 1990. In December of 1989, Lewandowski purchased: Cal. Hilton Hotel calls; Fruit of the Loom, Inc.; and Americus Trust for IBM shares. Lewandowski sent Claimant a check for \$25,000.000. Claimant alleged that the check was returned for insufficient funds. Claimant next alleged that Lewandowski acknowledged the debt, and signed a memo to that effect. Lewandowski has, despite demand, failed to pay the remaining debit balance of \$18,383.15.

In February of 1990, Respondent AGI purchased 5,000 shares of Sea Containers Limited Stock. The check sent in payment was alleged to have been returned for insufficient funds. Claimant stated that AGI made \$2,000.00 in payment towards the debit balance. However, despite demand for payment, AGI has failed to pay the remaining debit balance. Claimant alleged a current debit balance of \$23,408.78 as of September 28, 1990.

Respondents AGI and Lewandowski have failed to file an Answer to the Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested that the panel issue an award in favor of the Claimant in the amount of \$41,791.93 plus interest to date of judgement, costs, attorney's fees, filing fees and such other relief as is just and proper.

### **OTHER ISSUES CONSIDERED & DECIDED**

Respondents American Glass Industries, Inc. and Robert Lewandowski failed to appear at the hearing, and failed to file Answers and Submissions to Arbitration as required under Sections 12, and Section 25 (b) of the NASD Code of Arbitration Procedure. After reviewing the service attempts by the NASD and Claimant Oppenheimer & Co., Inc., and deliberation, the panel allowed the hearing to proceed, pursuant to Section 29 of the Code, without Respondent Robert Lewandowski. However, the panel ordered the claim against Respondent American Glass Industries, Inc. be withdrawn, at this time, with the right to refile an arbitration against Respondent American Glass Industries, Inc. at a later date.

The parties present at the hearing have agreed that the Award in this matter may be executed by counterpart copies or that a handwritten, signed Award may be entered. In either case, the

parties have agreed to receive conformed copies of the award while the original remains on file with the NASD.

#### AWARD

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

1. Respondent Robert Lewandowski is liable for, and shall pay to Claimant Oppenheimer & Co., Inc. the amount of \$16,703.82 plus the cost of the proceedings against the Respondent Robert Lewandowski as set forth more fully below.

2. Claimant Oppenheimer & Co.'s claims against Respondent American Glass Industries, Inc. are hereby withdrawn without prejudice.

#### FORUM FEES

Pursuant to Section 43 (c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

1 hearing session X \$600.00 = \$600.00

Pursuant to Section 43(c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$500.00, and shall refund the hearing session deposit in the amount of \$600.00 previously paid to the NASD by the Claimant.

Forum fees in the amount of \$600.00 are assessed against Respondent Robert Lewandowski.

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

#### CONCURRING ARBITRATORS

Dated:

April 28, 1992

/s/Steven P. Gomberg  
Steven P. Gomberg  
Presiding Chair  
Public Arbitrator

April 28, 1992

/s/Susan E. Einspar-Wayne  
Susan E. Einspar-Wayne  
Public Arbitrator

April 28, 1992

/s/Greg Rzepczynski  
Greg Rzepczynski  
Industry Arbitrator