

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between ;

Oppenheimer & Co., Inc. ;

Claimant ;

vs. ;

James R. McClung ;

Respondent ;

CASE #90-03419
AWARD

CASE SUMMARY

Claimant, Oppenheimer & Co., Inc. Garden City, NY by and through its outside counsel, Wexler & Burkhart, PC, in a claim filed with the National Association of Securities Dealers, Inc. on December 4, 1990, alleged that Respondent James R. McClung failed to pay for the purchase of 15,000 warrants of Hansen Trust, PLC, which caused an unsecured debit balance in the respondent's account.

Respondent, James R. McClung, failed to file an answer to the Statement of Claim.

RELIEF REQUESTED

Claimant, Oppenheimer & Co., Inc. requested Five Thousand Six Hundred Sixty-Two Dollars and Ninety-Four Cents (\$5,662.94) in damages plus interest, attorneys fees and filing fees.

The respondent, James R. McClung failed to file an answer to the Statement of Claim.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Nancy J. Cliff, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on November 15, 1990 and not by the Respondent as required by Section 13(d) of the Code of Arbitration Procedure.

Respondent, James R. McClung failed to file a Statement of Answer to the claim originally served to him on December 7, 1990. On September 26, 1991, the NASD sent via certified mail to the

respondent, a notice of his overdue answer. Although the respondent, James R. McClung failed to file an answer service was effected on October 21, 1991 as evidenced by the return of the NASD green card for the letter dated November 11, 1991 which had been sent to the same address and was to inform the respondent of the NASD's selection of an arbitrator. James R. McClung failed to file an answer to the claim.

And, that the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The respondent James R. McClung is liable and shall pay to the Claimant, Oppenheimer & Co., Inc. Five Thousand Six Hundred Sixty-Two and Ninety-Four (\$5,662.94) plus 9% interest from March 25, 1988 which equals One Thousand Eight Hundred Thirty-Seven and Fifty-Eight Cents (\$1,837.58).
2. The respondent is liable and shall pay to the Claimant Seven Hundred Fifty Dollars (\$750.00) in attorney's fees.
3. The Five Hundred Seventy-Five (\$575.00) fee previously deposited with the NASD shall be retained by the NASD and is assessed against the respondent who shall pay Five Hundred Seventy-Five Dollars (\$575.00) to Oppenheimer & Co., Inc. as reimbursement.
4. The parties shall bear their respective costs.

AFFIRMATION

I, Nancy J. Cliff, Esq., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

Nancy J. Cliff

DATED: January 14, 1992

DATED BY THE NASD, INC.: January 14, 1992