

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Herbert Rock

v.

90-03609

Oberhofer & Co.

Mark Oberhofer

Michael Baldwin

Donaldson Lufkin & Jenrette Securities Corp.

REPRESENTATION

For Claimant: David F. Morgan, Esq. - Barton, Klugman & Oetting, 333 South Grand Ave., 37th Floor, Los Angeles, CA 90071

For Respondents:

Donaldson Lufkin & Jenrette Securities - Susan L. Hoffman, Esq., McCutchen, Doyle, Brown & Eversen, 633 West Fifth Street, Suite 2020, Los Angeles, CA 90071

Oberhofer & Company and Mark Oberhofer - Edward S. Gelfand, Esq., Friedman & Phillips, P.C., 10920 Wilshire Boulevard, Suite 6750, Los Angeles, CA 90024

Michael Baldwin - In Pro Se, 9346 Civic Center Drive, Beverly Hills, CA 90213

CASE INFORMATION

Statement of Claim filed: December 26, 1990

Claimant's Submission Agreement signed on: December 7, 1990

Statement of Answer and Counterclaim filed by Respondent, Mark Oberhofer, as an individual and for Oberhofer & Co. on: May 1, 1991

Statement of Answer filed by Respondent Donaldson, Lufkin & Jenrette Securities Corp. on May 20, 1991

Respondent, Mark Oberhofer, individually and Oberhof & Co.'s Submission Agreement filed on March 19, 1991.

Respondent, Donaldson, Lufkin & Jenrette Securities Corporation's
Submission Agreement filed on May 16, 1991

HEARING INFORMATION

Pre-Hearing Conferences : None

Hearing Dates/Sessions: February 19, 1992 - Two Sessions
February 20, 1992 - Two Sessions
February 21, 1992 - Two Sessions
February 22, 1992 - Two Sessions

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Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant, Herbert Rock (Rock) alleged that Respondent, Michael Mark Baldwin (Baldwin), while employed by Oberhofer & Company (Oberhofer) made unsuitable purchases of low-rated municipal bonds in Baldwin's account. Said purchases were made through Respondent, Donaldson, Lufkin & Jenrette Securities Corporation (DLJ). Rock also alleged that Baldwin and Oberhofer were negligent in investing Rock's funds on margin and that DLJ misrepresented the bond ratings of the municipal bonds and that Rock relied on said misrepresentations.

Respondents, Oberhofer, by way of answer and counterclaim, deny each and every allegation of wrong-doing and by way of counterclaim, alleged that Rock incurred an unsecured debit balance in his account which is due and owing to Oberhofer and that demand for payment has been made and Rock refused to satisfy said demand.

DLJ, by way of answer, alleged that Rock did not rely on ratings stated on the purchase and sale confirmations and that DLJ did not breach any duty which it owed to Rock nor was any damage caused by acts or omissions of DLJ and that Rock failed to mitigate said damages.

RELIEF REQUESTED

Claims requested: Damages in the sum of \$415,000.00, \$107,568.27 in interest paid and reinvested, margin interest of \$38,486.73, the delivery of 1,000 shares of American Income IV Limited Partnership, together with all payments thereon received by Oberhofer for Claimant's account, attorneys' fees and interest. Claimant also requested that Oberhofer be restrained from selling his 1,000 shares of American Income IV Limited Partnership until the panel rendered its award.

Respondent-Counterclaimant, Oberhofer & Company and Mark Oberhofer, requested: An award by way of counterclaim in the sum not less than \$139,570.27 plus interest at the rate of 10.5% per annum from October 7, 1991 until paid; an award authorizing the liquidation of the limited partnership interests currently being held by Respondents in Claimant's account, that each and every claim of Claimant be dismissed plus attorneys' fees and costs.

Respondent, Donaldson, Lufkin & Jenrette Securities Corporation seek dismissal of the claim in its entirety plus attorneys' fees and costs.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in 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(s) remain 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. Each and every claim of Claimant, Herbert Rock, against Respondents, Oberhofer & Co., Mark Oberhofer, Michael Baldwin and Donaldson Lufkin & Jenrette Securities Corporation, is dismissed.

2. Counterclaimant Oberhofer & Company is awarded damages against Counter-respondent, Herbert Rock, as follows:

(a) The sum of One Hundred Thirty Eight Thousand Four Hundred and Thirty Nine Dollars and No Cents (\$138,439.00) of which, pursuant to request of the Claimant, the sum of Ninety Four Thousand Six Hundred and Forty Five Dollars and No Cents (\$94,645.00) is to be awarded to Counterclaimant's creditor, Southwest Securities, Inc., 1201 Elm Street, Suite 4300, Dallas, Texas 75270, and the balance of Forty Three Thousand Seven Hundred and Ninety Four Dollars (\$43,794.00) to Counterclaimant Oberhofer & Company.

(b) The counterclaim of Mark Oberhofer, as an individual, is dismissed.

(c) All claims for interest are denied.

(d) All claims for costs and attorneys' fees are denied.

(e) The NASD shall retain all filing fees and hearing sessions deposits made by the parties.

OTHER COSTS

None.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

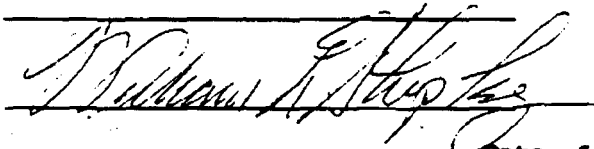
Forum fees Assessed Against: Claimant, Herbert Rock, in the amount of \$7,000.00, representing fees assessed for eight hearing sessions at \$1,000.00 each, less the previously deposited \$1,000.00.

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

ARBITRATION PANEL

Public/Industry
Public
Public
Industry

Signatures



Date of Decision:

FEB 27 1992

Served March 23, 1992