

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
:
Oppenheimer & Co., Inc. :
:
: Claimant :
:
vs. :
:
Mark Landeene :
:
Respondent :

~~CASE #91-08107~~
~~AWARD~~

CASE SUMMARY

Oppenheimer & Co., Inc. by it's counsel, Mark S. Goldstein, Wexler & Burkhart, P.C., Garden City, NY, in a claim filed with the National Association of Securities Dealers, Inc. on January 8, 1991, alleged that Respondent Mark Landeene has failed to satisfy a debit balance in his customer account despite due demand. Respondent had made various purchases in his account for which he failed to pay. These purchases included Texas Eastern Warrants, Phillips Petroleum and Wendys International, Inc. stock.

Respondent, Mark Landeene failed to Answer the original service of the Statement of Claim sent to him on January 9, 1991. The Claim was re-served on Mr. Landeene on April 8, 1991 and returned to this office on April 27, 1991 marked "unclaimed". Service by regular mail was not returned. According to the Freedom of Information Act, counsel for Claimant contacted the Postmaster of Lindenhurst, IL who confirmed on February 14, 1991 that Mr. Landeene did reside at the address used for service of the Claim. On June 5, 1991 Mark Landeene in a telephone conversation with Mary Barto, Senior Legal Assistant at the NASD, Inc., New York, NY, confirmed his address as served, confirmed that he did receive a copy of the Statement of Claim and requested information on how to issue a counterclaim and third party claim to be submitted with his Answer.

On June 14, 1991 Mr. Landeene again spoke to Senior Legal Assistant Mary Barto to assert that he was in settlement negotiations with the Claimant and expected to settle the case within two weeks. On June 17, 1991 Claimant's attorney Mark S. Goldstein informed Ms. Barto that there were no settlement negotiations in progress and that he wished the case to be sent to the arbitrator for determination.

Mark Landeene did not respond to the Statement of Claim.

RELIEF REQUESTED

Claimant requests Six Thousand Seven Hundred Seventeen Dollars and Ninety-Eight Cents (\$6,717.98) in damages plus interest from October 6, 1990, return of the Five Hundred Seventy-Five Dollars and No Cents (\$575.00) NASD, Inc. fee and attorney's fees of One Thousand Three Hundred Forty Dollars and No Cents (\$1,340.00).

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Ellen E. Douglass, 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 December 18, 1990 and not by the Respondent as required by his customer agreement and Sections 12(a) and 13(d) of the Code of Arbitration Procedure.

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. That the Respondent, Mark Landeene, is liable and shall pay to the Claimant, Oppenheimer & Co., Inc., damages of Six Thousand Seven Hundred Seventeen Dollars and Ninety-Eight Cents (\$6,717.98) plus interest on that amount as provided for by Illinois state law from October 6, 1990 until payment of this award.
2. The Respondent is liable and shall pay to the Claimant One Thousand Three Hundred Forty Dollars and No Cents (\$1,340.00) representing attorney's fees.
3. The Five Hundred Seventy-Five Dollars and No Cents (\$575.00) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. and is assessed against Respondent Mark Landeene who shall pay Five Hundred Seventy-Five Dollars and No Cents (\$575.00) to the Claimant Oppenheimer & Co., Inc.

Page Three
Award #91-00107

AFFIRMATION

I, **ELLEN E. DOUGLASS, 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.



Signature of Arbitrator

EXECUTED : August 12, 1991
DATED: August 19, 1991