

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Dushyant Oza Keogh Plan & Dushyant Oza

91-02543

Name of Respondent(s)

Wall Street Clearing Co.

OTRA Clearing, Inc.

Wellshire Securities, Inc.

REPRESENTATION

For Claimant: David M. Greenberg, Esq.; San Francisco, California

For Respondents: Wellshire Securities : No appearance.

Wall Street Clearing, Inc.: David Goldman, Esq. of  
Wexler and Burkhart, Garden City, New York.

OTRA Clearing, Inc.: Scott G. Monson, Esq. of OTRA  
Securities Group, Salt Lake City, Utah.

CASE INFORMATION

Statement of Claim filed: August 16, 1991

Claimant's Submission Agreement signed on: August 8, 1991

Statements of Answer filed by Respondents:

Wellshire Securities	: None filed.
Wall Street Clearing	: October 15, 1991
OTRA Clearing	: October 25, 1991

Respondent's Submission Agreements signed on:

Wellshire Securities	: None filed.
Wall Street Clearing	: October 28, 1991
OTRA Clearing	: October 24, 1991

HEARING INFORMATION

Hearing Date(s)/Session(s): May 12, 1992 - two sessions

Hearing Location: San Francisco, California

CASE SUMMARY

Claimants alleged that Respondents Wall Street Clearing and OTRA Clearing aided and abetted securities fraud by Wellshire Securities, that Wall Street Clearing, as broker and clearing agent for Claimants' accounts, had a duty when transferring Claimants' accounts to place them with a brokerage firm that was not a fraud. Claimants alleged that employees of

Wall Street Clearing should have known that Wellshire Securities was operating fraudulently and should have notified claimants. Claimants alleged that OTRA Clearing, acting as clearing agent for Wellshire Securities, had a duty to determine that Wellshire Securities was operating fraudulently and also had a duty to warn Claimants. Claimants further alleged unauthorized transactions by Respondent Wellshire Securities.

Respondents Wall Street Securities denied all allegations of wrongdoing, and asserted that it did not cause Claimants' damages. Respondent OTRA Clearing denied all allegations of wrongdoing, asserting that as a clearing broker, it had no fiduciary duty to Claimants, only the duty to execute the trades placed by its broker/dealers.

#### RELIEF REQUESTED

Claimants requested damages of \$106,575.00 plus interest, punitive damages, costs of arbitration and attorneys' fees.

Respondents Wall Street Clearing and OTRA Clearing each requested dismissal of all claims.

#### 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. All claims brought against Respondent OTRA Clearing are dismissed.
2. All claims brought against Respondent Wall Street Clearing are dismissed.
3. Respondent Wellshire Securities is liable for and shall pay to Claimants the sum of \$106,575.00 plus interest at the legal rate from April 1, 1990 until paid.
4. The claim for punitive damages is dismissed.
5. The parties shall each bear their respective costs including attorneys' fees.

FORUM FEES

Pursuant to Section <43c> of the Code of Arbitration Procedure, the NASD shall refund the \$750.00 hearing session deposit made by Claimants. Forum fees of \$1,500.00 (\$750.00/session X two sessions) are assessed jointly and severally against Wall Street Clearing and Wellshire Securities.

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

ARBITRATION PANEL

Public/Industry  
Public Chairperson  
Public  
Industry

s' Signatures

Diane Winston  
\_\_\_\_\_  
\_\_\_\_\_

DATE SERVED: 05/20/92

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