

## N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, N.Y. 10004  
FAX (212) 858-4389

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In the Matter of the Arbitration BetweenName of Claimant

Nancy S. Peebles

91-02889

Name of Respondents

Oppenheimer & Co., Inc.  
Steve Winston

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REPRESENTATION

For Claimant Nancy S. Peebles ("Claimant"): she appeared pro se.

For Respondents Oppenheimer & Co., Inc. ("Oppenheimer") and Steve Winston ("Winston"): Joseph C. Pickard, of Oppenheimer.

CASE INFORMATION

Statement of Claim filed: September 18, 1991.

Claimant's Submission Agreement signed on: September 13, 1991

Joint Statement of Answer filed by Respondents on: February 19, 1992.  
Respondent Oppenheimer's Submission Agreement signed on: February 19, 1992.  
Respondent Steve Winston's Submission Agreement signed on: as required,  
pursuant to Section 25 of the Code of Arbitration Procedure, Winston did not  
execute a submission agreement.

HEARING INFORMATION

Hearing Date/Sessions: October 27, 1992/2 sessions

Hearing Location: Columbus, OH.

CASE SUMMARY

Claimant alleged on or about 1988, Winston solicited Claimant to open accounts with Winston, with the cash to be placed in long term low risk investments. Claimant alleged Respondents knew she was a conservative investor with limited resources. Claimant alleged on or about January 15, 1988, Winston purchased 200 shares of Chevron Corporation ("Chevron") for Claimant whereby Winston received a commission. Claimant alleged on or about April 24, 1989, Winston sold said shares and received a commission. Claimant alleged on or about April 24, 1989, Winston purchased 400 shares of Phillips

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Petroleum Company ("Phillips") whereby Winston received a commission. Claimant alleged on or about September 8, 1989, Winston sold said 400 shares and received a commission. Claimant alleged on or about September 8, 1989 Winston purchased 400 shares of Texas Air Corporation ("Texas Air") and Winston received a commission. Claimant alleged on or about December 10, 1990, Winston sold said shares and received a commission.

Claimant alleged Respondents recklessly managed the foregoing investment transactions; breached their fiduciary duty; churned her account; and embarked upon a program of inducing her to follow unsuitable recommendations.

Respondents alleged Oppenheimer's records reflect Claimant provided information reflecting that her estimated net worth was \$100,000.00; her estimated annual income was \$30,000.00; and her investment objectives included "income/moderate growth" and "long term growth".

Respondents maintained all three (3) of the transactions in Claimant's account were consistent with Claimant's objectives and were suitable. Respondents asserted none of the securities in her account were highly speculative. Respondents maintained the Claimant authorized and approved each transaction and received research report updates by Oppenheimer analysts pertaining to all investments in her account.

Respondents asserted that during the thirty-five (35) month period in dispute Claimant made the following trades: 1) purchase and sale of Oppenheimer recommended Chevron which resulted in a profit to Claimant; 2) purchase and sale of Oppenheimer recommended Phillips which resulted in a profit to Claimant; and 3) purchase and sale of Oppenheimer recommended Texas Air which resulted in a loss to Claimant. Respondents maintained Claimant's position whereby she appeared to suggest that Respondents should have predicted the value of Texas Air stock would drop precipitously was unreasonable.

Respondents asserted Claimant's churning allegation was unreasonable and the level of trading was consistent with her investment objectives.

#### RELIEF REQUESTED

Claimant requested: actual damages in excess of \$25,000.00; punitive damages; costs; and interest at the legal rate on all sums awarded.

Respondents requested: the Statement of Claim be dismissed in all respects; and costs and disbursements.

#### OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. In

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this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD.

Pursuant to the by-laws of the NASD, the arbitrator determined that Respondent Winston was required to submit to this arbitration and, therefore, is bound by this arbitrator's rulings and determinations.

#### AWARD

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

- 1- The Claims of the Claimant, Nancy S. Peebles are hereby dismissed;
- 2- All other Claims are dismissed;
- 3- Each party shall bear its own expenses, including attorneys' fees.

#### FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$100.00 non-refundable filing fee previously deposited by Claimant and the following Forum Fees are assessed.

2 sessions X \$300.00 = \$600.00 minus hearing session deposit of \$300.00 = net \$300.00 due.

#### Forum Fees Assessed Against:

- 1- Respondent, Oppenheimer, in the amount of \$300.00.
- 2- Claimant, Peebles in the amount of \$300.00; however, the NASD shall retain the \$300.00 hearing session deposit previously paid in lieu of further payment.

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

Arbitrator's Signature

  
Benjamin B. Segal, Esq., Public Arbitrator