

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant
Neil Jaffe

NASD Arbitration
No. 91-03500

Name of Respondents
Oppenheimer & Co., Inc.
David Berman

REPRESENTATION

For Claimant: Randi Gaffner, Esq. - Gaffner & Gaffner

For Respondent: Eugene L. Small, Esq.

CASE INFORMATION

Statement of Claim filed: November 6, 1991

Claimant's Submission Agreement signed on: October 22, 1991

Joint Statement of Answer filed by Respondents on: January 2, 1992

HEARING INFORMATION

Pre-Hearing Conference: August 11, 1992 - one Session

Hearing Dates/Sessions: August 13, 1992 - Two Sessions
August 14, 1992 - Three Sessions

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant, Neil Jaffe (Jaffe), alleged that Respondent David Berman, while employed by Respondent, Oppenheimer & Co, Inc., caused losses in Jaffe's account by misrepresenting the nature of trading activities, by churning and by failing to disclose the risks associated with inappropriate investments.

Respondents alleged that Jaffe participated in all decisions relating to the trading in his account, received confirmations of all trades and was sent monthly statements for his review. Respondents also alleged that Jaffe was an aggressive investor who was willing to expose himself to substantial market risks in the hope of obtaining substantial returns quickly.

Respondents requested dismissal of the claim in its entirety plus costs.

OTHER ISSUES CONSIDERED & 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. Respondent, Oppenheimer & Co., is solely liable and shall pay to Claimant, Neil Jaffe, the sum of Twenty Eight Thousand, Five Hundred Sixty Nine Dollars and Fifty Eight Cents (\$28,569.58).
2. Each and every claim of Claimant, Neil Jaffe, against Respondent, David Berman, is dismissed.
3. Claimant's Claim for punitive damages is denied.
4. The parties shall each bear their respective costs and fees.

FORUM FEES

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

Respondents, David Berman and Oppenheimer & Co., Inc. are jointly and severally assessed the sum of \$4,050.00, representing assessments of \$300.00 for one pre-hearing conference and five regular hearing sessions at \$750.00 each.

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

ARBITRATORS


Name

Gerard Fisher
Robert Clarke
Sam Edgerton

Public/Industry

Public Chairperson
Public Panelist
Industry Panelist

Concurring Arbitrators' Signatures



DATE SERVED: 09/15/92

Date of Decision: 7/1/92