

N.A.S.D. REGULATION, INC..
STIPULATED AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

J. D. Prince

92-03638

Name of Respondent

Oppenheimer & Co., Inc.;
John P. Fitzgerald

REPRESENTATION

For Claimant: J.D. Prince ("Prince") was represented by Thomas K. Potter III, Esq., of Jones, Walker, Waechter, Poitevent, Carrere & Denegre, located in New Orleans, Louisiana.

For Respondent: Oppenheimer & Co., Inc. ("Oppenheimer") and John P. Fitzgerald ("Fitzgerald") were represented by John T. McGuire, Esq., of Oppenheimer & Co., Inc., located in New York, New York.

CASE INFORMATION

Statement of Claim filed: October 27, 1992.

Claimant's Submission Agreement signed on: October 23, 1992.

Statement of Answer filed by Respondents on: January 5, 1993.

Respondent Oppenheimer's Submission Agreement signed on: December 31, 1992.

Respondent Fitzgerald did not file an executed submission agreement.

HEARING INFORMATION

Pre-Hearing Conference: April 8, 1993 for One session.

Hearing Date/Sessions: None Held

Hearing Location: New Orleans, Louisiana.

CASE SUMMARY

Claimant alleged that Respondent Fitzgerald, while employed by or acting as an agent for Respondent Oppenheimer, failed to follow Prince's express instructions regarding a short sale of a certain stock; engaged in unsuitable transactions in the account and misrepresented the information provided to customers.

Respondents denied the allegations of the Claim, asserting several affirmative defenses.

RELIEF REQUESTED

Claimant requested entry of an award against Respondents for \$113,607.28 plus interest, attorneys' fees and costs incurred.

Respondents requested that the claim be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Fitzgerald did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and is bound by the determination of the arbitration panel on all issues submitted.

By letter dated May 19, 1993, Claimant Prince requested that the claim be dismissed against Respondent Fitzgerald. By letter dated June 1, 1993, Claimant advised that the claim against Oppenheimer was settled. The file was closed June 14, 1993.

By letter dated January 5, 1998, Fitzgerald requested that the record of this arbitration be expunged from his CRD record. Claimant consented to this request by letter of February 27, 1998 and agreed to this stipulated award.

AWARD

After considering the pleadings and the agreement of the parties, the undersigned arbitrators, without making any findings of fact or conclusions of law, have decided in full and final resolution of the issues submitted for determination as follows:

The undersigned arbitrators hereby order the expungement of this arbitration case from the Central Registration Depository ("CRD") of the National

Association of Securities Dealers, Inc. for the record of John P. Fitzgerald (CRD
Number 209041).

FORUM FEES

NASD Regulation, Inc. retained the \$200.00 claim filing fee and refunded the \$750.00 hearing session deposit paid by Claimant J.D. Prince.

Concurring Arbitrators' Signatures

Name

Date

/s/ Daniel Eugene Bivens III
Daniel Eugene Bivins, III
Public Arbitrator
Chairperson

May 13, 1998

/s/ Larry M. Roedel, Esq.
Larry M. Roedel, Esq.
Public Arbitrator

May 14, 1998

/s/ Morrell Feltus Trimble
Morrell Feltus Trimble
Industry Arbitrator

May 14, 1998

For ODR Use Only/Date of Decision: May 20, 1998