

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Carlo and Tamsen DiCarlo

93-05200

Name of Respondents

Oppenheimer & Co., Inc.
Patrick S. Jage

REPRESENTATION

Claimants Carlo and Tamsen DiCarlo ("Claimants") were represented at the hearing by Lloyd Kadish, Esq. of Lloyd Kadish & Associates, Ltd., Chicago, Illinois.

Respondents Oppenheimer & Co., Inc. ("Oppenheimer") and Patrick S. Jage ("Jage") were represented at the hearing by Eugene L. Small, Esq. of Oppenheimer & Co., Inc., New York, New York.

CASE INFORMATION

The Statement of Claim was filed on December 15, 1993. Claimant's Submission Agreement was signed on December 10, 1993.

The joint Statement of Answer was filed by Respondents on March 2, 1994. Respondent, Oppenheimer's Submission Agreement was signed on March 1, 1994. Respondent, Jage's Submission Agreement was signed on or about March 1, 1994.

HEARING INFORMATION

The hearing was conducted on December 29, 1994 for two (2) sessions, and on November 30, 1994 for one (1) session for a total of three (3) hearing sessions in Chicago, Illinois.

CASE SUMMARY

Claimants alleged that Respondent Jage, a Registered Representative employed by Respondent Oppenheimer, placed Claimants in highly speculative securities despite Claimants conservative investment objectives with little risk. Claimants alleged that Jage bought Metro Airlines debentures even though Metro Airlines was in bankruptcy and bought U.S. Long Distance Corp. and other securities in short-term transactions to generated commissions or mark-ups.

Respondents, in their Answer, stated that they should not be held liable as guarantors of investment recommendations that failed to perform in accordance with Claimant's expectations. Respondents alleged that the claim is baseless.

RELIEF REQUESTED

Claimants requested an award of at least \$84,907.43, plus costs, including attorney's fees.

Respondents requested that the claim be dismissed in its entirety and that the costs of the proceeding be assessed against him.

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 originals 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. The Claimant's Statement of Claim is denied in its entirety;
2. Each of the parties shall bear their own costs and expenses incurred, other than those specifically enumerated for herein.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed:

The NASD shall retain the non-refundable filing fee in the amount of \$150 and shall retain the hearing session deposit in the amount of \$500 which were previously deposited with the NASD by Claimants.

3 sessions X \$500 = \$1500 minus hearing session deposit of \$500 = net \$1000 due.

The panel has ordered that the additional forum fees in the amount of \$1000 shall be assessed against Claimants.

The additional Forum Fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

By The Arbitration Panel:

s/s Jerome M. Katz
Jerome M. Katz, Esq.
Presiding, Public Arbitrator

12/9/94

s/s Allen D. Schwartz
Allen D. Schwartz, Esq.
Public Arbitrator

12/9/94

s/s Howard A. Buchler

12/9/94

Howard A. Buchler
Industry Arbitrator

Date Award Served By The NASD: 12/20/94