

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Robert Bange

95-00852

Name of Respondents

Oppenheimer & Co., Inc.
John S. Sturges

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 17, 1995, Claimant Robert Bange, who appeared Pro Se, alleged that Respondents Oppenheimer & Co., Inc. ("Oppenheimer") and John Sturges ("Sturges"), mismanaged his account resulting in a loss. Claimant further alleged that on October 28, 1992, he opened a managed account with Respondent Sturges, then employed by Shearson Lehman. Claimant contended that during December, 1993, he agreed to move his account to Respondent Oppenheimer, so that Sturges, who was accepting a new position with Oppenheimer, could continue managing the account. Claimant further contended that the account transfer was not completed until March 15, 1994, even though Sturges had assured him it would be completed in three weeks. Claimant alleged that Sturges executed one trade for him on March 24, 1994, and another on April 8, 1994, because he mistakenly thought that the value of the account was below \$50,000.00, the minimum balance necessary for a managed account. Claimant further alleged that Sturges attempted to cover up his mistake by telling him that he had not submitted the proper forms. Claimant contended that Respondent Oppenheimer did not timely reply to his complaint and did not send him the proceeds from the liquidation of his account for twenty five days. As a result of the above, Claimant alleged that he has suffered a loss for which the Respondents should be held liable.

Respondents Oppenheimer & Co., Inc. and John Sturges, through their representative, Michelle A. Murphy, Esq., in-house counsel for Oppenheimer & Co., Inc., maintained that Claimant's stock and cash positions transferred via the ACAT System to Oppenheimer on or about March 15, 1994. Respondents further maintained that previous to this date, Sturges had sent out the Oppenheimer managed account program ("OMEGA") for the Claimant to execute in order to participate in the OMEGA program but Claimant failed to sign and return the documents. Respondents contended that Sturges could not "manage" the account until the signed paperwork came in. Respondents further contended that on June 7, 1994, instead of returning the signed paperwork, Claimant demanded that Oppenheimer liquidate his account, and this was done at a discounted commission of \$1,045.00. As a result of the above, Respondents maintained that they should not be held liable.

RELIEF REQUESTED

Claimant Robert Bange, requested \$7,398.12 in actual damages.

Respondents Oppenheimer & Co., Inc. and John Sturges, requested that the claims of the Claimant be dismissed.

AWARD

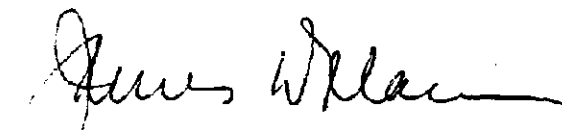
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, James Dolan, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Robert Bange, on February 15, 1994, and by the Respondent Oppenheimer & Co., Inc., on May 10, 1995, and not by Respondent John Sturges, as required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Oppenheimer & Co., Inc. and John Sturges, are jointly and severally liable and shall pay to the Claimant Robert Bange, \$1,045.00 in actual damages.
2. Respondents Oppenheimer & Co., Inc. and John Sturges, are jointly and severally liable and shall pay to the Claimant Robert Bange, interest at the rate of 7.5% per annum from August 3, 1994 to the date of this Award.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Robert Bange, shall be retained by the NASD, Inc. Respondents Oppenheimer & Co., Inc. and John Sturges, are jointly and severally liable and shall pay to the Claimant Robert Bange, \$150.00 as reimbursement of the filing fee.

AFFIRMATION

I, **JAMES DOLAN, ESQ.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: January 5, 1996