

NASD REGULATION, INC. AWARD

In the Matter of the Arbitration Between

Name of Claimant

William Graham

96-00636

Name of Respondents

Oppenheimer & Co., Inc.
Larry Malles
Randy Driver
Greg Wells
Keith Daubenspeck
Larry Bishop

REPRESENTATION

For Claimant William Graham ("Claimant") appeared Roger W. VanDeusen, Esq., of the law office of Chatman, Gaines, & Stern, located in Cleveland, Ohio.

For Respondents Oppenheimer & Co. ("Oppenheimer"), Larry Malles ("Malles"), Randy Driver ("Driver"), Greg Wells ("Wells"), Larry Bishop ("Bishop"), and Keith Daubenspeck ("Daubenspeck") appeared Lloyd S. Clareman, Esq., a sole practitioner, located in New York, New York.

CASE INFORMATION

Statement of Claim filed on February 22, 1996.

Claimant's Submission Agreement signed on February 8, 1996.

Joint Statement of Answer filed by Respondents filed on April 9, 1996.

Respondent Oppenheimer's Submission Agreement signed on April 9, 1996.

Respondent Malles's Submission Agreement signed on May 31, 1996.

Respondent Driver's Submission Agreement signed on May 20, 1996.

Respondent Wells's Submission Agreement signed on May 20, 1996.

Respondent Bishop's Submission Agreement signed on May 15, 1996.

Respondent Daubenspeck's Submission Agreement signed on May 20, 1996.

HEARING INFORMATION

Pre-Hearing Conferences:	January 3, 1997	One Session
	July 15, 1997	One Session
Hearing Dates/Sessions:	August 11, 1997	Two Sessions
	August 12, 1997	Two Sessions
	August 13, 1997	Two Sessions
	August 14, 1997	Two Sessions
	August 15, 1997	Two Sessions
	August 18, 1997	Two Sessions
	August 19, 1997	Two Sessions
	August 20, 1997	Two Sessions
	August 21, 1997	Two Sessions

The hearings were conducted at the Doubletree Guest Suite Hotel located in Columbus, Ohio.

CASE SUMMARY

Claimant alleged that, in 1990, while Respondents Driver, Malles and Wells were employed by Lehman Brothers, he was solicited to open an account with the firm. Claimant alleged that, in early 1991, when Respondents changed employment to Respondent Oppenheimer, he transferred the account to Oppenheimer from Lehman in order to continue to do business with the individual Respondents. Claimant alleged that no new account form was processed at the time the account was opened at Respondent Oppenheimer. Claimant alleged that, in October, 1991, a dispute arose with the Respondents concerning Claimant's desire to sell common stock of RJR and purchase RJR preferred stock. Claimant maintained that he insisted Respondent Oppenheimer sell the common stock and purchase the preferred stock on the recommendation of Respondents. Claimant alleged that Respondent Oppenheimer refused and he transferred the account to another company and executed the trade.

Claimant alleged that, in June 1992, after being solicited by Respondent Oppenheimer to return his account to them, he opened another new account with the firm. Claimant alleged that the account was restricted by Respondent Oppenheimer to a single purchase of no more than \$200,000.00 worth of securities and that the account not be traded on margin. Claimant further alleged that, once again, no new account form was processed. Claimant maintained that not until November, 1992 did Respondent Oppenheimer attempt to verify his net income or worth. Claimant alleged that by October, 1992 the account was again being traded on margin and, by 1993, purchases in the account exceeded the \$200,000.00 limit. Claimant alleged that, from June, 1992 until the account was closed in January, 1996, the account was actively traded and was never a conservative buy and hold account, which had been the recommendation of Respondent Oppenheimer. Claimant maintained that all securities purchased were at the recommendation of Respondents and that all of the trades were solicited by the Respondents.

Claimant maintained that the know your customer provisions of New York Stock Exchange Rule 405 had been repeatedly and continually violated by the Respondents. Claimant further maintained that the NASD suitability rule had also been violated by the Respondents. In addition, Claimant maintained that Respondents owed him a fiduciary duty, based upon those standards, to do what was in his best interest regardless of his expressed acquiescence to an active trading account.

Respondents maintained that Claimant was a highly sophisticated investor with considerable experience in the stock market and was familiar with the potential risks involved. Respondents asserted that when Claimant originally opened his account they believed his net worth to be substantial. Respondents maintained that in November 1991, the account was closed when they learned that Claimant's net worth was less than they believed and when Claimant demanded that Respondents execute transactions, which Respondents felt were unduly large relative to his stated net worth, be executed. Respondents maintained that Claimant engaged in aggressive and speculative trading in other firms including the RJR trade that Respondents refused to execute.

Respondents maintained that Claimant was at all times in control of his account and made all decisions concerning the account including those that went against the recommendation of Respondents. Respondents denied that they engaged in unauthorized trading, denied having actual or de facto control over the account, denied that they churned the account and denied that they made unsuitable investment recommendations.

RELIEF REQUESTED

Claimant requested damages in the amount of \$9,600,000.00, punitive damages in the amount of \$3,200,000.00, interest on those amounts from judgement until the date paid at the rate of 10% per annum, and reasonable attorneys' fees and costs.

Respondents requested that the Statement of Claim be dismissed in its entirety and the costs of this proceeding be assessed fully against Claimant.

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 remains on file with the NASD.

By letter dated May 7, 1997, Claimant dismissed his claim against Respondent Larry Bishop without prejudice.

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. Claimant's claims are hereby denied in their entirety.
2. Claimant's request for punitive damages is hereby denied.
3. Respondents' request for the deletion of all reference to this claim from the CRD records of the individual Respondent's is hereby denied.

FORUM FEES

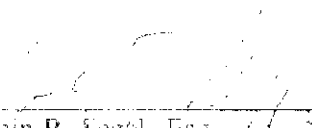
Pursuant to Rule 10332(c) of the NASD Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$300.00 non-refundable filing fee previously paid by Claimant and have assessed the following Forum Fees:

2 Pre-hearing conferences x \$300.00	=	\$ 600.00
18 Hearing sessions x \$1,500.00	=	\$27,000.00
Total Forum Fees	=	\$27,600.00

1. Claimant be and hereby is liable for the sum of \$13,800.00, representing one-half of the forum fees assessed. Claimant previously deposited \$1,500.00 with NASD Regulation, Inc. and, therefore, Claimant shall pay the sum of \$12,300.00.
2. Respondents be and hereby are jointly and severally liable and shall pay the sum of \$13,800.00, representing one-half of the forum fees assessed.
3. Respondent Oppenheimer be and hereby is liable for the sum of \$500.00, representing the NASD Member Surcharge. Respondent Oppenheimer previously deposited \$500.00 with NASD Regulation, Inc., therefore, no payment is due.

Fees are payable to NASD Regulation, Inc..

ARBITRATORS' SIGNATURES



Benjamin B. Segel, Esq.
Public Arbitrator Chairperson


Jerome B. Haddox, Esq.
Public Arbitrator

Robert P. Fogarty
Industry Arbitrator

Date of Decision. January 21, 1998

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Benjamin B. Segel, Esq.
Public Arbitrator - Chairperson


Jerome B. Haddox, Esq.
Public Arbitrator

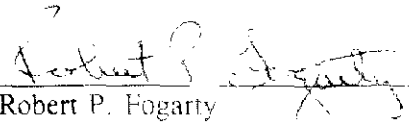
Robert P. Fogarty
Industry Arbitrator

Date of Decision: January 21, 1998

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Public Arbitrator - Chairperson

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Public Arbitrator



Robert P. Fogarty
Industry Arbitrator

Date of Decision: January 21, 1998