

N.A.S.D. AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the Matter of the Arbitration Between

Name of Claimants

Siegfried Wesserle and Ingeborg Wesserle

96-02594

Name of Respondent

Oppenheimer & Co., Inc.

REPRESENTATION

For Claimants: Siegfried Wesserle and Ingeborg Wesserle ("Wesserle") were represented by Siegfried Wesserle of Glenview, Illinois.

For Respondent: Oppenheimer & Co., Inc. ("Oppenheimer") was represented by Russell Katz of Oppenheimer & Co., Inc., located in New York, New York.

CASE INFORMATION

Statement of Claim filed: June 17, 1996.

Claimants' Submission Agreement signed on: June 13, 1996,

Statement of Answer filed by Respondent on: November 20, 1996.

Respondent did not file an executed Submission Agreement.

Respondent's Motion to Dismiss filed: November 20, 1996.

Claimant's Reply to the Motion to Dismiss filed: December 4, 1996.

Respondent's Second Motion to Dismiss filed: March 10, 1997.

HEARING INFORMATION

Pre-Hearing Conference: None Held.

Hearing Date/Sessions: March 25, 1997 for One (1) session.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimants alleged that Oppenheimer illegally manipulated the high volume of trading in a Zoran common stock to make the investment "look good" before the Wesserles' purchased the stock.

Respondent denied the allegations of the Claim, alleging that:

1. Claimants were not customers of Oppenheimer, did not rely on any information supplied from Oppenheimer in making the transaction, and purchased and sold the shares through another brokerage firm; and
2. Oppenheimer did not manipulate the volume of Zoran to make it "look good".

In addition, Respondent asserted several affirmative defenses.

RELIEF REQUESTED

Claimants requested entry of an award for \$2,509.22.

Respondent requested that the claim be dismissed in the entirety and that the costs of the proceeding be assessed fully against Claimants.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Oppenheimer presented two Motions to Dismiss based upon lack of jurisdiction because Wesseler had never had an account with Oppenheimer. On January 14, 1997, the Arbitrator determined that he would reserve ruling on the Motion until the in-person hearing.

On March 18, 1997, the Arbitrator reviewed the second Motion to Dismiss and determined that ruling would be reserved until the hearing of March 25, 1997. based upon the decision on the merits, a decision on the Motion to Dismiss is moot.

At hearing, Oppenheimer moved to amend the Statement of Answer to include a request for attorneys' fees and costs. The arbitrator denied the request to amend to include attorneys' fees, but acknowledged that Oppenheimer had requested costs as part of its original Statement of Answer.

The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Statement of Claim is hereby dismissed with prejudice and denied in its entirety;
2. The parties shall bear their own costs of arbitration, including any attorneys' fees, except for those specifically enumerated herein; and
3. Any relief not specifically awarded is hereby denied.

OTHER COSTS

Pursuant to Section 10333 of the Code of Arbitration Procedure, Respondent Oppenheimer & Co., Inc. is liable for and shall pay to the NASD Regulation, Inc., Office of Dispute Resolution the sum of \$100.00 as the member surcharge.

FORUM FEES

Pursuant to Section 10332(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:
One (1) hearing session x \$100.00 per session = \$100.00.

The NASD Regulation, Inc., Office of Dispute Resolution shall retain the non-refundable claim filing fee of \$50.00 paid by Claimants, Siegfried and Ingeborg Wesslerle. In addition, the Office of Dispute Resolution shall retain the \$100.00 hearing session deposit paid by Claimants as forum fees.

Arbitrator's Signature

Name

/s/ Gordon B. Shneider, Esq.

Gordon B. Shneider, Esq.

Public Arbitrator

Date

March 26, 1997