

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

IN THE MATTER OF THE ARBITRATION BETWEEN	§	
	§	
MICHAEL J. LEWIS,	§	
	§	
CLAIMANT,	§	
v.	§	NASD CASE NO: 96-03017
	§	
BEN B. CRAVENS AND	§	
OPPENHEIMER & CO., INC.,	§	
	§	
RESPONDENTS.	§	
	§	

REPRESENTATION OF PARTIES

Claimant, Michael J. Lewis, was represented by Victor Makris, Esq. of Houston, Texas.

Respondents, CIBC Oppenheimer Corp. formerly known as Oppenheimer & Company, Inc. and Ben B. Cravens, were represented by Andrew R. Harvin, Esq. and Stephen H. Lee of Doyle, Rider, Restrepo, Harvin & Robbins, L.L.P. of Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about July 8, 1996.

The Submission Agreement of Claimant, Michael J. Lewis was signed on July 8, 1996.

The Joint Statement of Answer was filed on or about September 17, 1996.

The Submission Agreement of Respondent, Ben B. Cravens was signed on September 17, 1996.

CASE SUMMARY

In the Statement of Claim, Michael J. Lewis ("Lewis") alleged that on January 21, 1992, he opened an account with Ben Cravens ("Cravens") a broker at CIBC Oppenheimer Corp. ("Oppenheimer"). According to Claimant, in September 1993, Cravens called Lewis to interest him in purchasing warrants of a company called Skolniks, Inc. Lewis alleged that he was hesitant to purchase the warrants because the money he invested with Oppenheimer represented most of his savings. Lewis alleged that Cravens assured Lewis that the warrants were a good buy and that they had good potential of rising in value. Allegedly based on Cravens' recommendation, Lewis purchased the warrants. Several purchases of Skolnik warrants were made during September and November and several sales were made. Sometime shortly after December 1993, the price for Skolniks warrants rose to 8.5 per share and Lewis' total investment was worth approximately \$25,500.00. Thereafter,

the price deteriorated through 1994. During this time, Lewis alleged that he repeatedly called Cravens with his concerns about the account, but Cravens told Lewis to stay in the investment because it would rocket back up. Lewis did not sell the warrants. Ultimately, Lewis alleged that he lost his entire investment of approximately \$28,000.00. Lewis alleged the loss was caused by churning, unsuitability and negligence.

In their Answer, Oppenheimer and Cravens denied the allegations set forth in the Statement of Claim. Respondents alleged that Lewis was a knowledgeable investor who willingly assumed the risks of investing in an attractive, yet aggressive growth stock. Respondents further alleged the investment in Skolniks was consistent with Lewis' stated investment objectives and was reasonable based on Skolniks' remarkable growth and favorable financial and operational reports released to security analysts and the public. Respondents also alleged that Lewis was consulted and approved each and every trade in his account and that Lewis refused Respondents' advice to sell the Skolniks warrants as the price dropped. Respondents finally alleged that Lewis realized significant profits on his initial investments in Skolniks, and that his actual loss was only \$2,571.20.

RELIEF REQUESTED

Claimant requested an award in the amount of \$28,000 in actual damages, plus interest, attorneys' fees and costs.

Respondents requested that the claims asserted against them be denied in their entirety.

OTHER ISSUES CONSIDERED & DECIDED

The parties filed a Stipulation and Request for Award of Expungement in which Claimant, based on his investigation and discovery in the case, stipulated and agreed that Cravens did not engage in wrongful conduct in connection with Claimant's account at Oppenheimer.

AWARD

After considering the pleadings and other matters in the record, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Ben B. Cravens did not engage in wrongful conduct in connection with Claimant's investment account at Oppenheimer;
2. This matter and any reference to this Case Number 96-03017 shall be expunged from the CRD for Ben B. Cravens;
3. This Order may be confirmed in a court of competent jurisdiction;

4. Claimant's claims against Oppenheimer have been resolved pursuant to a settlement;
and
5. With the exception of forum fees addressed below, the parties shall bear their own costs.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall retain the filing fee of \$100.00 previously paid by Claimant, Michael J. Lewis.

Pursuant to Rule 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 \$200.00 for the member surcharge.

Arbitrators' Signatures:

Dated:

Richard F. Dole, Jr., Esq.
Richard F. Dole, Jr., Esq.
Public Arbitrator, Presiding Chair

October 16, 1998

James E. Schlotmann
James E. Schlotmann
Public Arbitrator

October 16, 1998

Thomas J. Lisenby
Thomas J. Lisenby
Industry Arbitrator

October 26, 1998

Date served by the NASD: October 27, 1998