

**Award**  
**NASD Regulation, Inc.**

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**In the Matter of the Arbitration Between:**

**Elizabeth James and Sarah James Trust, (Claimant) vs. Charles W. Hooper, Jr.  
Owen-Joseph Securities, Inc., et. al. (Respondents).**

**Case Number:            99-01447**

**Hearing Site: Denver, Colorado**

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**REPRESENTATION OF PARTIES**

**Claimants, Elizabeth James and Sarah James Trust ("Claimants"): Steven M. Feder, Esq. , Smith McCullough, P.C., Denver, CO.**

**Respondents, Owen Joseph Securities, Inc. and Owen-Joseph Asset Management, Corp. ("Respondents): were represented by Brian D. Wallace, Esq., Fairfield and Woods, P.C.**

**CASE INFORMATION**

**Statement of Claim filed on or about: March 26, 1999.**

**Claimants, Elizabeth James and Sarah James Trust, signed the Uniform Submission Agreements: March 16, 1999.**

**Statement of Answer filed by Respondents, Owen-Joseph Securities, Inc. and Owen Joseph Asset Management Corp. on or about: August 17, 1999.**

**Respondent, Owen Joseph Securities, Inc. signed the Uniform Submission Agreement: August 23, 1999. Respondent, Owen Joseph Asset Management Corp. signed the Uniform Submission Agreement: August 23, 1999.**

**CASE SUMMARY**

**Claimants asserted the following causes of action: Breach of Fiduciary Duty, Violations of Section 10(b) of the Securities Exchange Act of 1934, and Rule 10b-5 promulgated thereunder, violations of Section 12(2) of the Securities Act of 1933; Violations of Section 12(2) of the Securities Act of 1933; Violations of Sections 11-51-501, 11-51-604(3), and 11-51-604(5)(b) and (c) of the Colorado Securities Act; Violations of C.R.S. Sections 11-51-501(1)(b), 11-51-604(4), and 11-51-604(5)(b) and (c) of the Colorado Securities Act; Unsuitability; Churning;**

Professional Negligence against Hooper; Professional Negligence and Negligent Supervision Against Owen-Joseph Securities, Inc.; Fraud; Unauthorized transactions; Manipulation; Consumer Protection Act; Respondent Superior. The causes of action relate to the handling of and investments made in Claimants' accounts.

Unless specifically admitted in its Answer, Respondents Owen Joseph Securities, Inc. and Owen Joseph Asset Management, Corp. denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: *any diminution in the value of Claimants' accounts was the direct and proximate result of Claimants' election to pursue an investment objective in growth equities, and of the risks which she knowingly and willingly assumed, inherent in the investment strategy of growth equities trading that she chose to implement and that James is estopped from asserting her alleged claimants on the ground that she was at all times fully aware of the volume and nature of the transactions in her account and the resulting account values and she never made any objection as to the handling of her accounts until she experienced the short-term loss of paper profits.*

### RELIEF REQUESTED

Claimants requested:

Compensatory Damages	unspecified
Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief :	unspecified

Respondents requested:

Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief:	unspecified

### OTHER ISSUES CONSIDERED AND DECIDED

In the initial Statement of Claim, Claimants named Chuck Hooper, Owen-Joseph Companies, Owen-Joseph Securities, Inc., and Owen-Joseph Asset Management, Corp. as Respondents. During the initial pre-hearing conference with the panel of arbitrators on January 11, 2000, counsel for Respondents stated that Owen Joseph Companies was not a legal entity, and was sometimes used as a reference for Owen-Joseph Asset Management, Corp. and Owen Joseph Securities, Inc. In addition, Respondents counsel agreed to participate in the NASD arbitration process on behalf of Respondent Owen-Joseph Asset Management Corp., a non-member of the NASD. Owen Joseph Asset

Management, Corp. executed a Uniform Submission Agreement on August 23, 2000.

On September 28, 1999 Claimant dismissed Respondent Charles Hooper. Therefore, the arbitrator's made no further rulings as to Respondent Charles Hooper.

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.

#### AWARD

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

That any and all claims for relief are hereby denied as to each of the Respondents Owen Joseph Securities, Inc. and Owen Joseph Asset Management, Corp.

#### FEES

Pursuant to the Code, the following fees are assessed:

##### Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$250.00
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##### Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is a party and the Respondent's former firm.

Member surcharge	= \$1200
Pre-hearing process fee	= \$600
Hearing process fee	= \$2000

##### Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$450.00  
 Pre-hearing conference: May 1, 2000 1 session

One (1) Pre-hearing sessions with Panel x \$1000.00 = \$1000.00  
 Pre-hearing conference: January 11, 2000 1 session

Five (5) Hearing sessions x \$1000.00 = \$5,000.00  
 Hearing Dates: July 6, 2000 1 sessions  
 July 7, 2000 2 sessions  
 July 8, 2000 2 sessions

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Total Forum Fees = \$6,450.00

1. The Arbitration Panel has assessed \$6,450.00 of the forum fees to Respondent Owen Joseph Securities, Inc.

#### Fee Summary

1. Claimants, Elizabeth James and Sarah James Trust, be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$250.00
Forum Fees	= \$0
<u>Administrative Costs</u>	<u>= \$0</u>
Total Fees	= \$250.00
<u>Less payments</u>	<u>= \$1,250.00</u>
Refund Due	= (\$1,000.00)

2. Respondent, Owen Joseph Securities, Inc. be and hereby is solely liable for:

Member Fees	= \$3,800.00
Forum Fees	= \$6,450.00
<u>Administrative Costs</u>	<u>= \$0</u>
Total Fees	= \$10,250.00
<u>Less payments</u>	<u>= \$3,800.00</u>
Balance Due NASD Regulation, Inc.	= \$6,450.00

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature

\_\_\_\_\_  
Harold M. Golz, Esq.  
Public Arbitrator, Presiding Chair

  
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Raymond L. Betts, Esq.  
Public Arbitrator

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Ronald G. Guida  
Industry Arbitrator

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Signature Date

  
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Signature Date

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Signature Date

All balances are due to NASD Regulation, Inc.


Concurring Arbitrators' Signature

\_\_\_\_\_  
Harold M. Golz, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

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Raymond L. Betts, Esq.  
Public Arbitrator

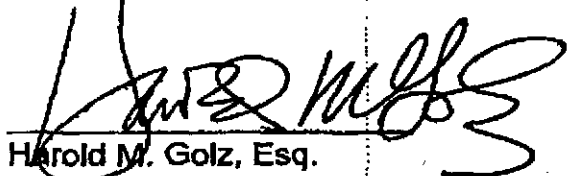
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Ronald G. Guida  
~~Industry Arbitrator~~  
Public Arbitrator

6-29-00  
\_\_\_\_\_  
Signature Date

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature



Harold M. Golz, Esq.

Public Arbitrator, Presiding Chair

Industry

7/5/00  
Signature Date

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Raymond L. Betts, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

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Ronald G. Guida  
Industry Arbitrator

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Signature Date