

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:
Arlene T. Rosengarten v. Oppenheimer & Co. and Gerry Nemetz

Case Number: 99-01591

Hearing Site: St. Louis, MO

REPRESENTATION OF PARTIES

Claimant, Arlene T. Rosengarten: Stuart R. Berkowitz, Esq., Platke and Berkowitz, L.L.P., St. Louis, MO.

Respondents, CIBC Oppenheimer, Corp. and Gerry Nemetz: Joseph J. Sullivan, Esq., CIBC Oppenheimer Corp., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: April 5, 1999

Claimant, Arlene T. Rosengarten signed the Uniform Submission Agreement: March 29, 1999

Statement of Answer filed by Respondents, CIBC Oppenheimer Corp and Gerry Nemetz on or about: August 17, 1999

Respondent, CIBC Oppenheimer Corp signed the Uniform Submission Agreement: August 12, 1999

Respondent, Gerry Nemetz signed the Uniform Submission Agreement: July 14, 1999

CASE SUMMARY

Claimant, Arlene T. Rosengarten (Rosengarten) asserted that Respondent Gerry Nemetz (Nemetz) recommended and purchased shares of stock in United States Surgical, WSMP, Sagebrush, 3D Labs and Glenayre Tech for three securities accounts opened and maintained by Rosengarten at Respondent, CIBC Oppenheimer Corp. (Oppenheimer). Rosengarten alleged the stocks were unsuitable, that Nemetz failed to inform her the stocks were highly risky and speculative, that to purchase all of the aforementioned stocks in each of her accounts was highly risky and speculative and unsuitable for her retirement accounts. In addition, Rosengarten alleged that Oppenheimer failed to supervise the activities of Nemetz.

Respondents, Oppenheimer and Nemetz denied the allegations of the claim, asserted the Claim was without merit and that Rosengarten was seeking compensation for largely unrealized losses in five suitable investments.

RELIEF REQUESTED

Claimant, Arlene T. Rosengarten requested:

Compensatory Damages	\$50,000.00
Punitive Damages	\$0
Interest	\$unspecified
Attorney's Fees	\$0
Costs	\$unspecified
Other Costs	\$unspecified
Other Monetary/Non-Monetary Relief if any:	None

Respondents, CIBC Oppenheimer and Gerry Nemetz requested:

Compensatory Damages	\$0
Punitive Damages	\$0
Interest	\$0
Attorneys' Fees	\$0
Other Costs	\$0
Other Monetary/Non-Monetary Relief if any:	Dismissal of the Claim

OTHER ISSUES CONSIDERED AND 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.

AWARD

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

1. Respondents, CIBC Oppenheimer and Gerry Nemetz are jointly and severally liable for and shall pay to Claimant, Arlene T. Rosengarten, the sum of \$18,850.00 representing losses on transactions entered into based upon recommendations shown to be unsuitable to her;
2. Except as granted specifically above, all other claims are denied; and,
3. Other than the forum fees and member fees set forth below, the parties shall

each bear their respective costs and attorney's fees.

FEEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$175.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is *CIBC Oppenheimer Corp.*

Member surcharge	= \$ 800.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1000.00

Adjournment Fees

Adjournments requested during these proceedings: None

Forum Fees and Assessments

The 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 arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One Initial Pre-hearing session with the panel x \$600.00 = \$600.00
Initial Pre-hearing conference Date: March 2, 2000 for 1 session

Two Hearing sessions with the panel x \$600.00 = \$1,200.00
Hearing Date: July 6, 2000 for 2 sessions

Two Hearing sessions with the panel x \$450.00 = \$1,200.00
Hearing Date: July 7, 2000

Total Forum Fees = \$3,000.00

1. The Arbitration panel has assessed all \$3,000.00 of the forum fees to Respondent, Oppenheimer.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

None.

Fee Summary

1. Claimant, Arlene T. Rosengarten shall be and hereby is solely liable for:

Initial Filing Fee	= \$175.00
Member Fees	= \$ 0
Adjournment Fee	= \$ 0
Forum Fees	= \$ 0
<u>Administrative Costs</u>	= \$ 0
Total Fees	= \$175.00
<u>Less payments</u>	= \$625.00
Balance Due NASD Regulation, Inc.	= (\$450.00)

2. Respondent, CIBC Oppenheimer Corp., be and hereby is solely liable for:

Type Filing Fee	= \$ 0
Member Fees	= \$800.00
Pre-hearing Processing Fees	= \$600.00
Hearing Processing Fees	= \$1,000.00
Adjournment Fee	= \$ 0
Forum Fees	= \$3,000.00
<u>Administrative Costs</u>	= \$ 0
Total Fees	= \$5,400.00
<u>Less payments</u>	= \$2,400.00
Balance Due NASD Regulation, Inc.	= \$3,000.00

3. Respondent, Gerry Nemetz, be and hereby is liable for: \$0 in fees

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Any balances owed are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signature(s)



Arthur L. Smith Esq.
Public Arbitrator, Presiding Chair

8-18-2000

Signature Date

Herbert Lasky, Esq.
Public Arbitrator

Signature Date

Timothy M. Kelly, Esq.
Industry Arbitrator

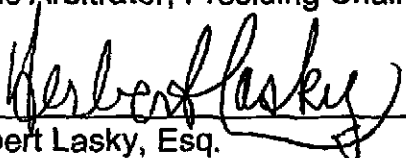
Signature Date

Date of Service
(For NASD office use only)

Any balances owed are due to NASD Dispute Resolution, Inc.

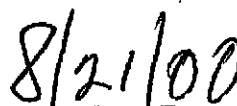
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Timothy M. Kelly, Esq.
Industry Arbitrator

8/21/00

Signature Date

Date of Service
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