

NASD AWARD

NASD Regulation, Inc., Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Meadowbrook Cardiology Money Purchase Plan

Case No.
97-05323

Name of Respondents

Oppenheimer & Co., Inc.
William L. Leventon

REPRESENTATION

William S. Haaz, M.D., Trustee of Meadowbrook Cardiology Money Purchase Plan (herein referred to as "Claimant") was represented by Glenn S. Gitomer, Esq. of the law firm of McCuasland, Keen & Buckman, Radnor, Pennsylvania.

CIBC Oppenheimer Corp. (successor of Oppenheimer & Co., Inc.) and William L. Leventon (collectively "Respondents") were represented by Richard Kelly, Esq., Executive Director for the Legal Department of CIBC Oppenheimer Corp., New York, New York.

CASE INFORMATION

Claimant's Statement of Claim was filed on November 11, 1997.

Claimant's Submission Agreement, executed by William S. Haaz, Trustee of The Meadowbrook Cardiology Money Purchase Plan, was signed on December 3, 1997.

Respondents' Statement of Answer was filed on February 3, 1998.

Respondent CIBC Oppenheimer Corp.'s ("Oppenheimer") Submission Agreement, executed by Richard Kelly, Executive Director of CIBC Oppenheimer Corp., was signed on January 28, 1998.

Respondent William L. Leventon's ("Leventon") Submission Agreement was signed on January 27, 1998.

HEARING INFORMATION

Pre-Hearing Conference: July 1, 1998 - one session with the Panel

Hearing Dates/Sessions: October 6, 1998 - two sessions
October 7, 1998 - two sessions

Hearing Location: The DoubleTree Hotel, Philadelphia, Pennsylvania

CASE SUMMARY

Claimant commenced this arbitration proceeding to recover actual damages in the amount of \$750,000 arising from the alleged negligent administration of Claimant's investment account maintained by Oppenheimer. Claimant alleged that Oppenheimer's investment broker, Leventon: (1) directed and effectuated unauthorized trades in unsuitable securities; (2) excessively traded in the account to receive increased commissions; and (3) acted with the specific intent to defraud Claimant by disregarding its investment objective of long term growth which precipitated a breach of fiduciary duty. Claimant alleged that its funds were diminished as a direct and proximate result of Oppenheimer's failure to supervise Leventon and Claimant's account.

Respondents denied that they committed any wrongdoing alleged in Claimant's Statement of Claim. Respondents asserted that Claimant did not suffer any trading losses. Respondents also maintained that the account was not excessively traded for personal gain in view of the character of the account owned by Claimant. Respondents illustrated that there was no evidence pointing to excessive trading which indicated a purpose on the part of Respondents to derive a profit at the expense of Claimant. Moreover, Respondents asserted that since the account was not excessively traded nor were there any trading losses, Claimant is not entitled to any damages.

RELIEF REQUESTED

Claimant requested actual damages in the amount of \$750,000 plus Claimant's costs and attorneys' fees.

Respondents requested that Claimant's Statement of Claim be denied in its entirety.

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 originals remain on file with NASD Regulation, Inc. ("NASD Regulation").

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. Respondents CIBC Oppenheimer Corp., as the successor to Oppenheimer & Co., Inc., and William L. Leventon are jointly and severally liable to The Meadowbrook Cardiology Money Purchase Plan in the sum of \$454,293; post hearing interest will run at six percent (6%) simple interest per annum from June 27, 1997 until the date the award is paid.
2. That Claimant's request for punitive damages is denied in its entirety.
3. That the parties shall bear their respective costs, including attorneys' fees except as costs and forum fees are addressed below.
4. Any and all claims for relief not specifically addressed herein are denied in their entirety.

OTHER COSTS

Respondents owe a member surcharge fee of \$2000.

Claimants have paid a filing fee of \$250 and a hearing session deposit of \$1000. Claimants have also paid for an interim filing fee of \$2150.

FORUM FEES

Pursuant to Rule 10332 of the Code of Arbitration Procedure, the following Forum Fees are assessed.

Claimants have paid a non-refundable filing fee of \$250 which shall be retained by NASD Regulation.

(1 pre hearing conference with the Panel x 1000) + (4 hearing sessions x 1000) = \$5000 total forum fees
- Claimant's hearing session deposit of \$1000 = \$4000 net due.

Respondents Oppenheimer and Leventon, jointly and severally, are assessed forum fees in the amount of \$4000.

Respondents Oppenheimer and Leventon, jointly and severally, shall also reimburse Claimant's hearing session deposit of \$1000.

Claimant shall be refunded the interim filing fee of \$2150.

Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.

Date Award Signed

Concurring Arbitrators' Signatures

10/24/1998



Charles J. Bloom, Esq., Chairperson
Public Arbitrator

Zarin P. Bengali, Esq., Panelist
Public Arbitrator

Michael Quarto, Panelist
Industry Arbitrator

Date Award Served by NASD Regulation: November 10, 1998

Date Award Signed

Concurring Arbitrators' Signatures

11-12-98

Charles J. Bloom, Esq., Chairperson
Public Arbitrator

Zarin P. Bengali

Zarin P. Bengali, Esq., Panelist
Public Arbitrator

Michael Quarto, Panelist
Industry Arbitrator

Date Award Served by NASD Regulation: November 10, 1998

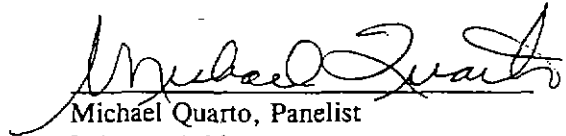
Date Award Signed

Concurring Arbitrators' Signatures

Charles J. Bloom, Esq., Chairperson
Public Arbitrator

Zarin P. Bengali, Esq., Panelist
Public Arbitrator

10/30/98



Michael Quarto, Panelist
Industry Arbitrator

Date Award Served by NASD Regulation: November 10, 1998