

AWARD
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Name of Claimant

Rose LaBolle, by her Guardian
and Conservator, Dr. Eric LaBolle

vs.

Case Number: 13-02460
Hearing Site: Detroit, Michigan

Name of Respondent

Oppenheimer & Co., Inc.

NATURE OF THE DISPUTE

Customer vs. Member

This case proceeded under the Optional All-Public Panel Rule / All-Public Panel

REPRESENTATION OF PARTIES

Rose LaBolle, by her Guardian and Conservator, Dr. Eric LaBolle ("Claimant") was represented by Bruce D. Oakes, Esq., Oakes & Foshier, LLC, St. Louis, Missouri.

Oppenheimer & Co., Inc. ("Respondent") was represented by Christopher Tovar, Esq., Oppenheimer & Co. Inc., New York, New York.

CASE INFORMATION

The Statement of Claim was filed on or about August 20, 2013. The Submission Agreement of Claimant was signed on or about August 5, 2013.

The Statement of Answer was filed by Respondent on or about January 9, 2014. The Submission Agreement of Respondent was signed on or about January 9, 2014.

CASE SUMMARY

Claimant asserted the following causes of action: violation of Michigan Securities Act; restitution; breach of fiduciary duty; common law fraud; breach of contract; negligence/negligent misrepresentation/omission; and negligent supervision. Claimant alleged that Respondent, through its registered representatives, churned her account and that the investments made were unsuitable given her advanced age and conservative

investment objectives. Claimant further alleged that Respondent failed to supervise the actions of its brokers, and as such is responsible for the any losses incurred by their actions.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$500,000.00
Exemplary/Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

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

- 1.) Respondent, Oppenheimer & Co., Inc., is liable for and shall pay to Claimant, Rose LaBolle, by her Guardian and Conservator, Dr. Eric LaBolle, the sum of \$235,000.00 in compensatory damages;
- 2.) Respondent, Oppenheimer & Co., Inc., is liable for and shall pay to Claimant, Rose LaBolle, by her Guardian and Conservator, Dr. Eric LaBolle, the sum of \$17,458.00 in costs;

- 3.) Respondent, Oppenheimer & Co., Inc., is liable for and shall pay to Claimant, Rose LaBolle, by her Guardian and Conservator, Dr. Eric LaBolle, the sum of \$300.00 as reimbursement of the non-refundable filing fees;
- 4.) Respondent, Oppenheimer & Co., Inc., is liable for and shall pay to Claimant, Rose LaBolle, by her Guardian and Conservator, Dr. Eric LaBolle, the sum of \$47,100.00 in attorneys' fees pursuant to MCLA 451.810; and
- 5.) Any relief not specifically enumerated, including punitive damages, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution will retain the non-refundable filing fee* for each claim:

Initial Claim filing fee = \$ 1,425.00

**The filing fee is made up of a non-refundable and a refundable portion.*

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 persons at the time of the events giving rise to the dispute. Accordingly, as a party Oppenheimer & Co., Inc. is assessed the following:

Member surcharge = \$ 1,700.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 2,750.00

Adjournment Fees

Adjournments granted during these proceedings:

September 2-5, 2014, Adjournment requested by Respondent = \$ 1,125.00
Total Adjournment Fees = \$ 1,125.00

The Panel has assessed \$1,125.00 of the adjournment fees to Oppenheimer & Co., Inc.

Contested Motion for Issuance of a Subpoena Fees

Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) Decision on a contested motion for the issuance of a subpoena	
<u>One (1) arbitrator @ \$200.00 (maximum of \$600)</u>	= \$ 200.00
<u>Total Contested Motion for Issuance of Subpoenas Fees</u>	= \$ 200.00

The Panel has assessed \$200.00 of the contested motion for issuance of subpoenas fees to Oppenheimer & Co., Inc.

Hearing Session Fees and Assessments

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

One (1) Pre-hearing session with Panel x \$1,125.00		= \$ 1,125.00
Pre-hearing conference: March 3, 2014	1 session	
Five (5) Hearing sessions x \$1,125.00		= \$ 5,625.00
Hearing Dates: February 4, 2015	2 sessions	
February 5, 2015	2 sessions	
February 6, 2015	1 session	
<u>Total Hearing Session Fees</u>		= \$ 6,750.00

The Panel has assessed \$6,750.00 of the hearing session fees to Oppenheimer & Co., Inc.

All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Jeffry M. Bauer - Public Arbitrator, Presiding Chair
Edward A. Porter - Public Arbitrator
Peter C. Rageas - Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

Concurring Arbitrators' Signatures:

/s/ Jeffry M. Bauer
Jeffry M. Bauer
Public Arbitrator, Presiding Chair

2/12/15
Signature Date

/s/ Edward A. Porter
Edward A. Porter
Public Arbitrator

2/13/15
Signature Date

/s/ Peter C. Rageas
Peter C. Rageas
Public Arbitrator

2/11/15
Signature Date

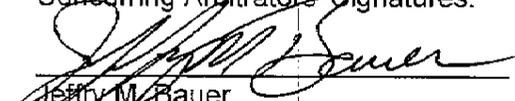
2/13/15
Date of Service (For FINRA office use only)

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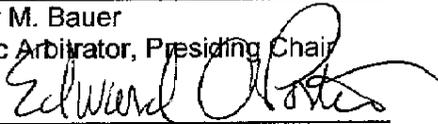
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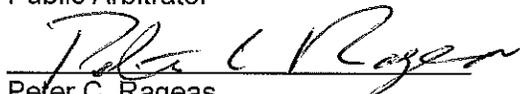
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