

**AWARD**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between

John Bojduj

and

00-03565  
Detroit, Michigan

OLDE Discount Corporation  
Gery Williams, and  
Brian Poirier

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**REPRESENTATION OF PARTIES**

John Bojduj ("Claimant"): pro se. Jerome Quinn, Esq., Bloomfield Hills, Michigan, represented Claimant until on or about October 25, 2000. Andrew Stoltman, Esq., Maddox, Koeller, Hargett & Caruso, Chicago, Illinois, represented Claimant until on or about May 14, 2001.

OLDE Discount Corporation ("OLDE"), Gery Williams ("Williams"), and Brian Poirier ("Poirier"), hereinafter referred to as Respondents, were represented by Howard M. Klausmeier, Esq., OLDE Discount Corporation, Detroit, Michigan.

**CASE INFORMATION**

The Statement of Claim was filed on or about July 28, 2000. The Submission Agreement of Claimant John Bojduj was signed on August 10, 2000.

Statement of Answer was filed by Respondent OLDE, Williams, and Poirier, on or about October 18, 2000. The Submission Agreement of Respondent OLDE was signed on or about October 16, 2000, by David Andrews, as General Counsel. The Submission Agreement of Respondent Williams was signed on or about October 18, 2000. The Submission Agreement of Respondent Poirier was signed on or about October 13, 2000.

Respondents' Motion to Bar Claimant's presentment of witnesses and/or documents at the arbitration hearing. Respondents' Motion to Dismiss for Failure to Prosecute and Motion to Expunge was filed on or about March 4, 2002.

**CASE SUMMARY**

Claimant asserted the following causes of action: Violation of NASD Rules, including suitability, fair dealing, supervision, know your customer, and unauthorized trades; and Common law breach of fiduciary duty. The causes of action relate to a margin call.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant has failed to state a claim on which relief may be granted; Claimant's claims are barred by the statute of frauds; Claimant's claims are barred by laches, waiver, estoppel and ratification; Claimant assumed the risk of his investments and the losses incurred; Claimants' claims are time bared by applicable statutes of limitations.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$114,870.00 in out-of-pocket losses, plus interest, costs, actual attorney fees, exemplary and punitive damages, additional damages as allowed by the Panel, and rescission.

Respondents requested that the claims asserted against them be denied in its entirety and that they be awarded their costs and attorneys' fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

The Panel took Respondents' Motion to Compel Discovery and Motion to Bar under advisement in its Order of June 16, 2001. The Panel further ordered Respondents to provide it with Legal Notice to Claimant for Discovery in the aforementioned Order.

The Claimant did not appear for the hearing on March 28, 2002. Respondent presented evidence of the Claimant's death at hearing.

The party present has 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 party present has agreed to receive conformed copies of the award while the originals remain on file with the NASD Dispute Resolution, Inc. (the "NASD").

### **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.) Claimant's claims, each and all, are dismissed without prejudice;
- 2.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Gery Williams' registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Williams must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Poirier's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Poirier must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;

- 4.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 5.) That any relief not specifically enumerated, including punitive and exemplary damages, is hereby denied without prejudice.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. will retain the non-refundable filing fees for each claim:

Initial claim filing fee = \$300.00

#### **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. In this matter, the member firm is OLDE Discount Corporation.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

#### **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 Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: February 21, 2001 1 session	
One (1) Hearing session x \$1,125.00	= \$1,125.00
Hearing Date: March 28, 2002 1 session	
<hr/> Total Forum Fees	<hr/> = \$2,250.00

The Arbitration Panel has assessed \$1,125.00 of the forum fees to John Bojduj.

The Arbitration Panel has assessed \$1,125.00 of the forum fees jointly and severally to OLDE Discount Corporation, Gery Williams, and Brian Poirier.

**Fee Summary**

Claimant, John Bojduj, is liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,425.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent, OLDE Discount Corporation, is liable for:

Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
Less payments	= \$ 4,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondents, OLDE Discount Corporation, Gery Williams, and Brian Poirier, are jointly and severally liable for:

Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,125.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,125.00

**All balances are due to NASD Dispute Resolution, Inc.**

**ARBITRATION PANEL**

George P. Doom - Public Arbitrator, Presiding Chair  
Leonard R. Present - Public Arbitrator  
Jennifer Ann Shandler - Non-Public Arbitrator

Concurring Arbitrators:

/s/ George P. Doom  
George P. Doom  
Public Arbitrator, Presiding Chair

04/18/02  
Signature Date

/s/ Leonard R. Present  
Leonard R. Present  
Public Arbitrator

04/17/02  
Signature Date

/s/ Jennifer Ann Shandler  
Jennifer Ann Shandler  
Non-Public Arbitrator

04/17/02  
Signature Date

04/19/02  
Date of Service (For NASD office use only)

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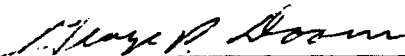
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George P. Doom  
Public Arbitrator, Presiding Chair

4-18-2002

Signature Date

Leonard R. Present  
Public Arbitrator

Signature Date

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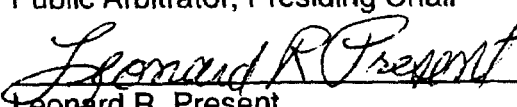
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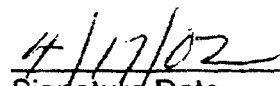
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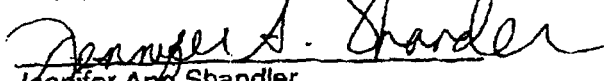
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