

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
THEODORE AND JOAN LORENC,)
Claimants,) Case #89-03223
vs.) Award
OLDE DISCOUNT CORPORATION,)
Respondent.)

Heard before the member of the Arbitration Panel:

H. Steven Holtzman, Esq.

CASE SUMMARY

This claim was filed with the NASD, Inc. on November 16, 1989. The hearing was conducted in Tampa, Florida on May 15, 1990, with a total of one (1) session.

Claimants, Theodore and Joan Lorenc ("the Lorencs"), alleged that Respondent, Olde Discount Corporation ("Olde"), was liable for withholding 2400 Mylan Lab Stock Certificates which Claimants had requested Respondent to release. Claimants allege that Respondent refuses to turn over the stock until Claimants return 90 shares of Pacific Telesis Group which were delivered to Claimants plus \$450.90 for quarterly cash dividends which were alleged to have been paid. Claimants maintain they only received 45 shares of Pacific Telesis; sold them before they split and thus should only be liable for returning the cost of 45 shares. Claimants also maintain that they received only \$68.40 in dividends and not \$450.90.

Respondent alleged that: the transfer agent was not notified by Olde to issue split shares; the sale of shares took place prior to ex-dividend date and was a sale with due bills; Claimants failed to deliver the shares pursuant to the due bills and sold them for their own benefit; and this short sale obligated them to pay dividends, even though the dividends were not received by Claimants.

RELIEF REQUESTED

Claimants requested release of the Mylan Labs Stock Certificates, a finding that they only owe Olde Discount Corporation Two Thousand Four Hundred Forty and 19/100 (\$2,440.19) Dollars, and costs. Respondent requested dismissal of the claim and damages in the amount Four Thousand Five Hundred Forty Seven and 15/100 (\$4,547.15) Dollars, plus interest.

AWARD

On May 15, 1990 the arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on November 14, 1989, and by Respondent on January 4, 1990. The arbitrator, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. 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 the NASD, Inc.
2. Claimants are hereby liable and shall pay to Respondent the amount of Two Thousand Four Hundred Forty and 19/100 (\$2,440.19) Dollars and, upon receipt of such payment, Respondent shall remove, or release, the lien on Claimants' Mylan Labs Stock Certificates.
3. Pursuant to Section 43 of the Code of Arbitration Procedure the arbitrator has assessed Respondent forum fees in the amount of Twenty five and 00/100 (\$25.00) Dollars to be paid directly to the Claimants. The National Association of Dealers, Inc. shall retain the Twenty Five and 00/100 (\$25.00) Dollar filing fee previously deposited by the Claimants.
4. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorney's fees.

OTHER ISSUES

None.

ARBITRATOR CONCURRING


H. Steven Holtzman, Esq.

Dated: June 4, 1990

THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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REPORT OF ARBITRATOR

Certain key facts were determinative in the decision reached by the arbitrator. These factors are as follows:

1. Mr. Lorenc's Statement of Claim and testimony that he was told by an Olde Discount Registered Representative that he was entitled to the stock split, while hearsay testimony, was not challenged during the proceeding.
2. Olde Discount did not follow its own procedure in withholding a portion of the funds due to Mr. Lorenc on the sale of his initial 43 shares.


H. Steven Holtzman, Esq.

Dated: June 4, 1990