

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Jeffrey & Luanne Corcoran

90-00189

Name of Respondent(s)

Olde Discount Corporation

CASE SUMMARY

In a Statement of Claim filed with the NASD on January 16, 1990, Claimants Jeffrey and Luanne Corcoran alleged that Respondent mishandled a stock sale by selling the same 500 shares of stock they owned in H&R Block, Inc. twice. Furthermore, Claimants alleged that Respondent demanded that Claimants cover the erroneous second 500-share sale. As a result, the Claimants were forced to purchase an additional 160 shares of H&R Block at market price so that Respondent could deliver these shares to the second buyer and the Respondent sold, without authorization, 340 shares of H&R Block stock which the Claimants had wanted to hold. Because the shares held had a low tax basis, Claimants alleged that significant capital gains taxes were triggered by the unauthorized sale.

In a Statement of Answer filed with the NASD on March 23, 1990, Respondent Olde Discount Corporation denied any wrongdoing on its part, alleging that the two sales occurred because Claimants placed two transactions: a limit order to sell 500 H&R Block at 33 1/2 and a market order to sell 500 H&R Block shares, without canceling the limit order. The Respondent further alleged that the fact that two orders were entered did not necessarily indicate to Respondent the existence of a duplicate trade and that the Claimants gave specific instructions to purchase the 160 shares to cover the short position.

RELIEF REQUESTED

Claimants Jeffrey and Luanne Corcoran requested the entry of an award against Respondent Olde Discount Corporation for \$1,212.37 in actual damages, \$10,000.00 in punitive damages, attorneys' fees and costs.

Respondent Olde Discount Corporation requested the entry of an award dismissing the Statement of Claim filed by the Claimants.

PROCEDURAL MATTERS

At hearing, Claimant presented a Motion pursuant to Section 25(b)(2)(iii) of the Code of Arbitration Procedure seeking to bar Respondent from presenting any matter, arguments, or defenses at the hearing. After hearing argument presented by the parties, the Arbitrator denied the Motion and Respondent was allowed to present its case.

AWARD

On October 9, 1990, in Milwaukee, Wisconsin, during a hearing lasting two sessions, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed on December 30, 1989 by Claimants Jeffrey and Luanne Corcoran and on March 22, 1990 by Bruce A. Campbell on behalf of Respondent Olde Discount Corporation.

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 original remains on file with the NASD.

The Arbitrator, having considered the pleadings, the testimony, the evidence presented at the hearing and the post-hearing briefs, has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Olde Discount Corporation is liable for and shall pay to Claimants Jeffrey and Luanne Corcoran the sum of \$ 1,263.28 as compensatory damages;
2. Respondent Olde Discount Corporation is liable for and shall pay to Claimants Jeffrey and Luanne Corcoran the sum of \$ 10,000.00 as punitive damages. The Arbitrator considered the federal case law and authorities, as well as the state case law and authority, cited in Claimants' and Respondents' post-hearing memoranda, and determined that authority existed for an award of punitive damages in favor of Claimants Jeffrey and Luanne Corcoran;
3. In addition, Respondent Olde Discount Corporation is liable for and shall pay to Claimants Jeffrey and Luanne Corcoran the sum of \$7,000.00 as attorneys' fees. The Arbitrator considered the federal and state authorities cited, the Wisconsin securities laws and the arguments set forth by the parties and determined that authority existed for an award of attorneys' fees in favor of Claimants Jeffrey and Luanne Corcoran;
4. The total dollar amount awarded above is \$ 18,263.28;
5. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$100.00 Claim Filing Fee and refund the \$300.00 Hearing Session

Deposit previously deposited with the NASD by the Claimants, Jeffrey and Luanne Corcoran. Respondent Olde Discount Corporation is liable for and shall pay to Claimants Jeffrey and Luanne Corcoran the sum of \$100.00 as reimbursement of the non-refundable filing fee paid by the Claimants. Respondent Olde Discount Corporation is liable for and shall pay to the NASD forum fees in the amount of \$600.00.

Arbitrator(s) Signature