

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Christy Sargent and Erich Seelye (JTWROS)

93-01978

Name of Respondents

Olde Discount Corporation
Brian J. Herskovitz

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 18, 1993, Claimants Christy Sargent and Erich Seelye, who appeared Pro Se, alleged that Respondent Olde Discount Corporation, through its registered representative, Brian Herskovitz failed to follow their instructions to purchase 100 shares of Pyramid Technology Corp. stock which would have cost \$850.00, and instead purchased \$8,606.00 worth without their authorization or consent. The Claimants further alleged that, although they were led to believe the problem was rectified, they later discovered that the stock was sold at a loss without their knowledge and that they had to pay \$783.50 into their account to cover the debit from the unauthorized sale. The Claimants contended that they have suffered losses due to the negligence of the Respondents, and that they should be held liable in this matter.

Respondents Olde Discount Corporation and Brian Herskovitz failed to file an answer to the Statement of Claim.

RELIEF REQUESTED

Claimants Christy Sargent and Erich Seelye requested \$783.50 in actual damages, plus interest and costs.

Respondent Olde Discount Corporation failed to file an answer to the Statement of Claim.

Respondent Brian Herskovitz failed to file an answer to the Statement of Claim.

OTHER ISSUES CONSIDERED & DECIDED

In accordance with Section 13 of the NASD Code of Arbitration Procedure the Respondents Olde Discount Corporation and Brian Herskovitz were served a copy of the Statement of Claim by regular mail and given an opportunity to respond, which they failed to do.

Pursuant to the By-Laws of the NASD the arbitrator determined that Respondents Olde Discount Corporation and Brian Herskovitz were required to submit to this arbitration proceeding and are, therefore, bound by the arbitrator's ruling and determination.

AWARD


Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Carole M. Crosby, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on May 13, 1993, but not signed by the Respondents as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure. Notification of the arbitrator's identity and notice of overdue answers were received by the Respondents as evidenced by signed return receipt cards.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Olde Discount Corporation and Brian Herskovitz are jointly and severally liable and shall pay \$783.50 in actual damages to the Claimants Christy Sargent and Erich Seelye.
2. The Claimants' request for interest is denied.
3. The parties shall bear their respective costs.
4. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc. Respondents Olde Discount Corporation and Brian Herskovitz are jointly and severally liable and shall pay \$30.00 to the Claimants as reimbursement.

AFFIRMATION

I, **CAROLE M. CROSBY, ESQ.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: October 21, 1993