

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the matter of the Arbitration Between

Name of Claimants

Roy W. & Pauline M. Orr

93-02309

Name of Respondents

Olde Discount Corporation
Steve Maehl
Mary Graff

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 10, 1993, Claimants Roy & Pauline Orr, who appeared Pro Se, alleged that on February 22, 1993 Respondent Olde Discount Corporation, through its broker, Respondent Steve Maehl, purchased Mentor Graphics when Claimant ordered "Mentor Corp" stock. The Claimant contended that when his son informed him that he may have been quoted the price of another stock, he immediately contacted the Respondents and disavowed the trade. Respondent Mary Graff, Branch Manager, rejected the disavowal and informed Claimant that he was responsible for the loss on the liquidation, which took place on the following day.

Respondents Olde Discount Corporation, Steve Maehl and Mary Graff, through their in-house counsel, Karen L. Brink, Esq., maintained that the Claimants' broker provided the Claimants with a full description of the name and price of the security being purchased in Claimants' account before he purchased it, and that the broker reread the full name and price of the security in question after the execution. The Respondents further maintained that it wasn't until two hours later that the Claimant complained that the wrong stock had been purchased in his account, and that he cannot be allowed to blame the broker for his own mistake.

RELIEF REQUESTED

Claimants Roy & Pauline Orr requested that they not be found liable for the \$1,433.55 the Respondents are claiming is due to the firm.

Respondents Olde Discount Corporation, Steve Maehl and Mary Graff requested that the claim of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Joel J. Bellows, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on June 7, 1993, by the Respondent Olde Discount Corporation on October 15, 1993, but not signed by Respondents Steve Maehl and Mary Graff as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

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. Award for Claimants and against Respondent OLDE Discount Corporation. Claimants' purchase of 2,500 shares of MENTOR GRAPHICS is rescinded and the deficit, including commissions, shall be extinguished.
2. Claim dismissed against Respondent Steve Maehl for insufficient evidence.
3. Claim dismissed against Respondent Mary Graff for failure to state a claim.
4. The parties shall bear their respective costs.
5. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc. Respondent Olde Discount Corporation is liable and shall pay \$50.00 to the Claimants as reimbursement of costs.

RATIONALE

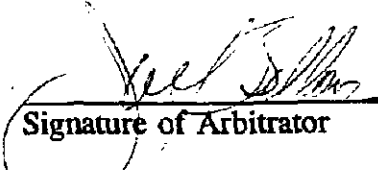
- 1) The parties' mutual mistake of fact makes the contract rescindable by either party;
- 2) It is undisputed that Claimant order the purchase of "MENTOR". As a fiduciary,

Respondent OLDE had the responsibility of notifying Claimant that two separate "MENTORS" existed. (Once the trade was disputed, Respondent OLDE also had an absolute obligation to liquidate Claimants' position in MENTOR GRAPHICS and it could not "play the market" at Claimants' risk.); and

3) Respondent OLDE's contention that Maehl confirmed the purchase of "MENTOR GRAPHICS" is not credible, since Claimant was employed by Mentor Corp. and presumably knew that the Company was in the surgical instrument business and not the graphics business.

AFFIRMATION

I, Joel J. Bellows, 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: April 14, 1994