

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Wayne Jackson

93-02882

Name of Respondents

Olde Discount Corporation;
John K. Koczara

REPRESENTATION

For Claimant: Wayne Jackson ("Jackson") was represented by Joseph H. Spiegel, Esq. of Southfield, Michigan.

For Respondents: Olde Discount Corporation ("Olde") and John K. Koczara ("Koczara") were represented by Mark L. Kowalsky, Esq. of Hertz, Schram & Saretsky, P.C., located in Bloomfield Hills, Michigan.

CASE INFORMATION

Statement of Claim filed: July 26, 1993.

Claimant's Submission Agreement signed on: July 1, 1993.

Statement of Answer filed by Respondents on: October 7, 1993.

Respondent Olde Discount's Submission Agreement signed on: October 7, 1993 by Bruce A. Campbell, Vice President and Corporate Attorney, Olde Discount Corporation.

Respondent Koczara's Submission Agreement signed on: October 13, 1993.

HEARING INFORMATION

Pre-Hearing Conference: June 8, 1994 for One (1) session before One (1) Arbitrator;
November 3, 1994 for One (1) session before One (1) Arbitrator.

Hearing Dates/Sessions: January 18, 1995 for Two (2) sessions;
January 19, 1995 for Two (2) sessions.

Hearing Location: Southfield, Michigan.

CASE SUMMARY

Claimant Jackson alleged that Respondent Koczara, while employed by or acting as an agent for Respondent Olde, misrepresented the safety and security of stocks and options, purchased unsuitable securities and engaged in churning in Jackson's account. Jackson specifically alleged that:

1. Jackson was a high school graduate with some college education who made his living as a tennis instructor. Jackson had virtually no investment experience, but instructed Koczara that he wanted safe, secure, growth oriented stocks to secure his retirement that would not consume his principal as a result of undue risk;
2. In about October 1992, Jackson met with Koczara and opened an account at Olde. During this meeting and in subsequent dealings, Koczara pressured Jackson to invest as much money as possible, including money from his credit cards and the modest settlement from a personal injury claim; and
3. Koczara pushed high risk stocks on Jackson by claiming he knew what he was doing and making false promises of safety and security. Numerous transactions were not authorized and stocks were recommended solely to generate commissions. In addition, Respondents put Jackson's account on margin to leverage the account's buying power to generate more commissions at Jackson's expense.

Based upon the above allegations, Jackson asserted claims for violation of the Federal and State securities laws; common law fraudulent misrepresentation; negligent misrepresentation; breach of fiduciary duty; violation of the Michigan Consumer Protection Act; and violation of the RICO Act, 18 U.S.C. 1962(a) and (c).

Respondents denied the material allegations of the Statement of Claim, alleging that:

1. When Jackson opened his account, he described himself as being a moderately aggressive investor looking for trading opportunities in growth-oriented stocks and requested that the account be opened as a margin account. In addition, Jackson told Koczara that he was interested primarily in short-term trading;
2. Koczara initially recommended that Jackson purchase three or four moderately aggressive stocks which were followed and recommended by Olde's research department. He recommended that Jackson hold onto the stocks for awhile, selling only the stocks that performed poorly and immediately replacing them with other favorably-rated stocks, and that Jackson not put too much of his money in any one particular stock;

3. Jackson began trading in his account by purchasing three stocks recommended by Koczara, plus 3000 shares of a penny stock Jackson chose himself. In November 1992, Jackson deposited more money in his account and changed his investment objectives to aggressive and speculative;

4. In November 1992, two of the Olde recommended stocks took slight downturns in price. Against Koczara's advice, Jackson ordered Koczara to sell those stocks and purchase four aggressive, low price stocks of Jackson's choosing. Throughout the life of the account, Koczara constantly encouraged Jackson to hold on to his stocks, while Jackson continued to trade them, trying for higher, faster returns either by putting a large percentage of his money into one stock or by purchasing low-priced, aggressive stocks of his own choosing; and

5. Koczara did not execute a single trade in Jackson's account without Jackson's full knowledge and express authorization.

RELIEF REQUESTED

Claimant requested entry of an award against Respondents for actual damages in the sum of \$100,000.00 plus interest from the date of the first investment; rescission of all fraudulent transactions pursuant to §29(b) of the Exchange Act, 15 U.S.C. §78c(c); punitive and exemplary damages; treble damages and attorneys' fees pursuant to RICO; costs and expenses of litigation, including reasonable attorneys' fees; and for such other relief as the panel determined.

Respondents requested that the arbitrators enter an award that they are obligated to pay Jackson nothing on the claim and that Jackson is liable for costs and attorneys' fees incurred in defense of the claim.

OTHER ISSUES CONSIDERED & DECIDED

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.

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. Respondent Olde Discount Corporation is liable for and shall pay to Claimant Wayne Jackson the sum of \$10,000.00 as actual damages;

2. In addition, Respondent John K. Koczara is liable for and shall pay to Claimant Wayne Jackson the sum of \$5,000.00 as actual damages;
3. The claims for punitive damages and treble damages are hereby dismissed with prejudice and denied their entirety;
4. The parties shall bear their own costs of arbitration, including attorneys' fees, except for those specifically enumerated herein; and
5. Any relief not specifically awarded is denied.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed: Two (2) pre-hearing conferences before One (1) arbitrator x \$300.00 per session = \$600.00; Four (4) hearing sessions x \$750.00 per session = \$3,000.00; Total forum fees = \$3,600.00. The National Association of Securities Dealers, Inc. shall retain the \$200.00 claim filing fee and the \$750.00 hearing session deposit previously deposited by the Claimant, Wayne Jackson. Claimant Wayne Jackson is liable for and shall pay to the NASD the sum of \$450.00 as forum fees. Respondent Olde Discount Corporation is liable for and shall pay to the NASD the sum of \$1,200.00 as forum fees. Respondent John K. Koczara is liable for and shall pay to the NASD the sum of \$1,200.00 as forum fees. Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

Name

Date

/s/ Carole M. Crosby, Esq.
Carole M. Crosby, Esq.
Public Arbitrator/Chairperson

March 8, 1995

/s/ Howard F. Lynn
Howard F. Lynn
Public Arbitrator

March 8, 1995

/s/ S. Peter Bayekian
S. Peter Bayekian
Industry Arbitrator

March 15, 1995

For NASD Use Only

Date of Service of Award: March 15, 1995

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Leonard D. & Helen Kraus TTEES/FBO Kraus

93-02888

Name of Respondent

Wedbush Morgan Securities

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 26, 1993, Claimants Leonard D. and Helen Kraus, who appeared Pro Se, alleged that Respondent Wedbush Morgan Securities failed to disclose premium and commission charges regarding their investments in Van Kampen Merritt California Municipal Funds #14, #16 & #29, as well as Nuveen California Tax Exempt Funds #13 and #145, and that the lack of disclosure has caused them to suffer damages for which the Respondent should be held liable.

Respondent Wedbush Morgan Securities, through its in-house representative, Marie E. Eaton, VP, Los Angeles, California, maintained that the Claimants were fully aware and advised of the sales charges, that they knew that sales charges were part of the cost of transactions, and that they paid such sales charges before. The Respondent contended that it has committed no wrong, and therefore the claims against it should be dismissed.

RELIEF REQUESTED

Claimants Leonard D. and Helen Kraus requested \$9,199.25 in actual damages.

Respondent Wedbush Morgan Securities requested that the claims of the Claimants be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

The Respondent Wedbush Morgan Securities submitted a Motion to Dismiss pursuant to Section 15 of the NASD Code of Arbitration Procedure. The Motion is denied.

The Respondent's request for a hearing is denied.

AWARD

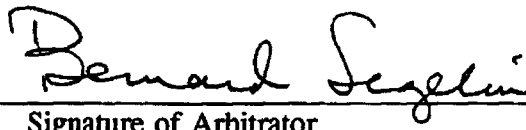
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Bernard Segelin, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on August 9, 1993 and by the Respondent on September 20, 1993.

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

1. Respondent Wedbush Morgan Securities is liable and shall pay to Claimants Leonard D. and Helen Kraus \$1,653.00 in actual damages, plus simple interest at the rate of 10% per annum from July 28, 1988 to the date of payment of the award.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Leonard D. and Helen Kraus shall be retained by the NASD, Inc. Respondent Wedbush Morgan Securities is liable and shall pay \$150.00 to the Claimants as reimbursement of the filing fee.

AFFIRMATION

I, **BERNARD SEGELIN, 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.

A handwritten signature in cursive script, reading "Bernard Segelin", is written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: September 30, 1994