

**NATIONAL ASSOCIATION OF SECURITIES DEALERS
AWARD**

In the Matter of the Arbitration Between

Hemalatha Challa and
Rami Reddy Mutyala

Claimants

v.

NASD No. 93-03832

Olde Discount Corporation and
Daniel Espino

Respondents

Representation

For Claimant: Rami R. Mutyala, San Diego, California

For Respondent: Lisa S. Fildes, Esq. of Olde Discount Corp., Detroit, Michigan

Case Information

Statement of Claim filed: September 17, 1993

Claimant's Submission Agreement signed: September 10, 1993

Statement of Answer filed for: Olde Discount Corp. on November 3, 1993
Daniel Espino on October 25, 1993

Respondent's Submission Agreement signed for: Olde Discount Corp. on November 1, 1993
Daniel Espino on October 20, 1993

Hearing Information

Prehearing Conference Date(s)/Sessions: None

Hearing Date/Sessions: May 10, 1994/one session

Hearing Location: San Diego, California

Case Summary

Claimant alleged:

Failure to properly execute order for 500 shares of Immune Response Corporation (IMNR). On June 4, 1993 Claimants placed an order to buy 500 shares of IMNR at \$22.00/share. Claimants then cancelled the order immediately which Respondent Daniel Espino (Espino) tried to do but could not because the original order had been executed. Claimants were then subsequently repeatedly told by Espino that the buy order had not been executed. Claimants eventually called Respondent Olde Discount Corp.'s (ODC) branch manager, Chuck Williams, (Williams) who advised them they did in fact own 500 shares of IMNR. Espino later admitted making three mistakes in the execution and verification of the trade.

Respondent Olde Discount Corp. alleged:

Claimant Rami Mutyala (Mutyala) placed a limit order to buy 500 shares of IMNR at 22 on June 4, 1993, which was accurately entered. Claimant called back the same day to cancel the order and Espino entered the request but was unaware that at the same minute the limit order was executed. Therefore, as of the close of the market on June 4, 1993, Claimant believed no purchase had been made.

On June 8, 1993, Claimant telephoned ODC and learned the limit order had been executed at 22; no sell order was placed. Espino erroneously confirmed the canceled order. Claimant dismissed the opportunity to sell the stock on June 8 when Williams gave him the correct status of the account. Claimant decided to hold the stock and when the market value declined, sought to hold Respondents responsible for his losses. In addition, Claimant failed to mitigate damages.

Respondent Daniel Espino alleged:

Claimant Mutyala called ODC on June 4 to buy 500 shares of IMNR, which was put in as a limit order for \$22/share. Moments before the market closed Mutyala called to cancel the order. Espino checked the computer and found the order had not yet been executed and so entered a cancellation and later confirmed it on June 7. On June 8 it was discovered that the order had in fact been executed at the same time the cancellation appeared on the printer.

Mutyala then advised Espino that he wanted to sell if the price went below \$20/share. Claimant had a chance to sell when the price hit \$20/share but decided to hold the stock. If Claimant had sold the stock at the time of the dispute there would have been no loss.

Relief Requested

Claimant requested that ODC buy IMNR stock at \$25.00, less applicable commission, plus interest and expenses, totalling \$10,000.

Other Issues Considered and 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. Respondents are jointly and severally liable for and shall pay Claimants \$1,500;
2. The parties shall each bear their respective attorney's fees;
3. The parties shall each bear their respective costs.

Other Costs

None.

Forum Fees

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc., shall retain the \$200 hearing session deposit previously paid by the claimant. Forum fees are assessed against:

Respondents, jointly and severally, for \$200,

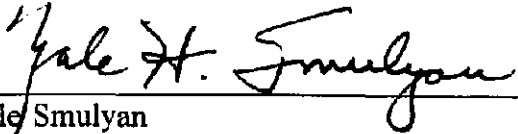
calculated as follows: one hearing session at \$200/hearing session.

Fees are payable to the National Association of Securities Dealers, Inc.

Arbitration Panel

<i>Name</i>	<i>Public/Industry</i>
Yale Smulyan, Esq.	Public

Arbitrator's Signature


Yale Smulyan

Served 5/26/94

Date of Decision: May 20, 1994