

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

D. Louise Dehne and Dana L. Schmidt

93-04095

Name of Respondents

Olde Discount Corporation
Rodney Douglas Bowman

REPRESENTATION

For Claimants D. Louise Dehne and Dana L. Schmidt ("Claimants"): D. Louise Dehne

For Respondents Olde Discount Corporation ("Olde") and Rodney Douglas Bowman ("Bowman"): Francis R. Ortiz, Esq. of the law firm of Dickinson, Wright, Moon, Van Dusen & Freeman

CASE INFORMATION

Statement of Claim filed: October 5, 1993

Claimants Submission Agreement signed on: August 31, 1993

Joint Statement of Answer filed by Respondents Olde and Bowman (collectively referred to as "Respondents") on: December 7, 1993

Amended Joint Statement of Answer filed by Respondents on: December 31, 1993

Olde's Submission Agreement signed on: November 15, 1993

Bowman's Submission Agreement signed on: November 15, 1993

HEARING INFORMATION

Pre-Hearing Conference: August 5, 1994 - one session

Hearing Date/Sessions: August 10, 1994 - two sessions

Hearing Location: NASD District Office - Washington, D.C.

CASE SUMMARY

Claimants alleged, among other things, that Bowman urged D. Louise Dehne ("Ms Dehne") to purchase high risks securities that were unsuitable for Claimants' accounts. Claimants alleged that Bowman failed to recommend quality stocks and only recommended stocks where Olde was a market maker. Claimants alleged that Respondents failed to "know their customers". Claimants alleged that Bowman encouraged Ms Dehne to buy high risk high tech stocks and that Bowman failed to offer Claimants a wide range of stocks. Claimants alleged that although Bowman encouraged Ms Dehne to buy stocks, he never contacted her to sell even when Claimants stocks were declining in value. Claimants alleged that Bowman urged Ms Dehne to invest on margin and failed to disclose the risks associated with "margining" Claimants' accounts. Claimants alleged that Bowman's behavior was irresponsible, unprofessional and negligent. Claimants alleged that Bowman committed fraud. Claimants alleged that Olde failed to properly supervise Bowman or their accounts.

Respondents denied all allegations of wrongdoing asserted by the Claimants. Respondents maintained, among other things, that all investments made by Claimants were suitable and that the recommendations were made after careful consultation with Ms Dehne. Respondents maintained that Claimants are using hindsight to determine the suitability of their investments. Respondents maintained that the net losses in Claimants' accounts were primarily sustained as a failure of Ms Dehne to hold growth stocks. Respondents maintained that had Claimants held onto the stocks recommended by Bowman, Claimant would have received a significant net profit. Respondents maintained that Claimants sustained a significant portion of their trading losses in SEEQ and that this investment was suitable for Claimants at the time it was made. Respondents maintained that once Claimants moved their accounts from Respondents, it was their decision on whether and when to sell. Respondents maintained that had Claimants' sought Respondents advice, Respondents would have encouraged Claimants' to hold their investments and had they done so they would have made money.

RELIEF REQUESTED

Claimants requested money damages in the amount of \$100,000.

Respondents requested that Claimants' claim be denied in its entirety and that

Claimants be charged all applicable forum fees.

OTHER ISSUES CONSIDERED & DECIDED

The Panel expresses concern with the adequacy of Olde's procedures for completing new brokerage account applications, including the recording of customer's financial information and fulfillment of the firm's requirement of securing the requisite supervisors' execution of the new brokerage account application.

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. That Respondent Olde is liable to Claimants and shall pay to the Claimants the sum of \$5,000, inclusive of interest. The Panel believes that Olde should have gone to greater lengths to define to Claimants the level of risks in buying securities on margin.
2. That Claimants' claim against Respondent Bowman is denied in its entirety.
3. That the parties shall bear their own costs, including attorneys' fees, except as specified herein.
4. Any and all claims not specifically mentioned above are denied in their entirety.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

1 pre hearing session = \$300 plus 2 hearings sessions x \$500 = \$1,300

Forum Fees Assessed Against: Claimants and Respondents equally. Claimants are assessed forum fees in the amount of \$650, however, Claimants are entitled to

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offset this amount with their hearing session deposit of \$500 previously deposited so that \$150 is due from Claimants.

Respondents are jointly and severally assessed forum fees in the amount of \$650.

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

Concurring Arbitrators' Signatures
Name

Public/Industry


Eugene I. Goldman, Esq.

Public Arbitrator


Leonard E. Benade

PUBLIC ARBITRATOR


Carol Corbett

Industry Arbitrator

NASD Date of Decision: August 18, 1994