

AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Burke Rock

93-05169

Name of Respondents

Olde Discount Corporation;
Tim Bresnahan

REPRESENTATION

For Claimant: Burke Rock ("Rock") appeared pro se.

For Respondents: Olde Discount Corporation ("Olde Discount") and Tim Bresnahan ("Bresnahan") were represented by Ina N. Otto, Esq. of Olde Discount Corporation, located in Detroit, Michigan.

CASE INFORMATION

Statement of Claim filed: December 16, 1993.

Claimant's Submission Agreement signed on: December 10, 1993.

Statement of Answer filed by Respondents on: March 18, 1994.

Respondent Olde Discount's Submission Agreement signed on: March 18, 1994 by Bruce A. Campbell, Vice President and Corporate Attorney, Olde Discount Corporation.

Respondent Bresnahan's Submission Agreement signed on: March 23, 1994.

HEARING INFORMATION

Pre-Hearing Conference: None Held.
Hearing Date/Sessions: October 27, 1994 for One (1) session.
Hearing Location: Southfield, Michigan.

CASE SUMMARY

Claimant Rock alleged that Respondent Bresnahan ("Bresnahan"), an account executive employed by Respondent Olde Discount, made false representations to him in order to place his funds into unsuitable investments. The Claimant specifically alleged that:

1. On or about August 4, 1992, Bresnahan recommended that Rock purchase Everex common stock. Bresnahan represented only that Everex was a "Great, great stock." No other information about the stock was revealed to Claimant;
2. Bresnahan further refused to allow Claimant to switch account executives at Olde after Claimant requested a change in brokers;
3. Bresnahan continuously made false representations about the prospects of the Everex stock even as the price of the stock fell due to the poor financial condition of Everex;
4. Bresnahan made knowingly false and misleading claims in disregard to his position and expertise and Claimant believed, depended and relied upon those claims;

Respondent Bresnahan and Olde Discount Corporation denied the material allegations of the Statement of Claim, alleging that:

1. Rock is an experienced investor who had fifteen (15) years of investing experience who advised Respondents that he was mainly interested in securities with growth potential;
2. Claimant chose to invest only in one stock to save commission costs, instead of investing his money equally among three stocks, as recommended by Bresnahan. The risks of smaller growth companies and the failure to diversify his portfolio were stressed to Claimant;
3. Rock was provided with research reports for all recommendations made

by Bresnahan;

4. At the time of Claimant's purchase, Olde's most recent research report had a "Buy" recommendation. Due to Everex's prospects, this recommendation was later shifted to "Neutral"; and

5. The decline in Everex stock was not due to misrepresentations by Bresnahan, but to market factors outside of the Respondents' control.

RELIEF REQUESTED

Claimant requested entry of an award for damages against Respondents in the sum of \$5,000.00.

Respondents requested that Claimant's claim be denied in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Statement of Claim is hereby dismissed and denied in its entirety;
2. The parties shall bear their own costs of arbitration, including attorneys' fees, except those specifically enumerated herein; and
3. Any relief not specifically awarded is hereby denied.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed: One (1) hearing session x \$75.00 per hearing session = \$75.00.

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The National Association of Securities Dealers, Inc. shall retain the \$75.00 claim filing fee and the \$75.00 hearing session deposit previously deposited by the Claimant, Burke Rock.

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

Concurring Arbitrator's Signature

Name

Date

/s/ Norman Bristol, Esq. _____
Norman Bristol, Esq.
Public Arbitrator

November 28, 1994

For NASD Use Only

Date of Decision: December 5, 1994