

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

David Szymanski

94-00743

Name of Respondents

Olde Discount Corporation
Brian McClive
Michael Tafelski

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 25, 1994, Claimant David Szymanski, who appeared Pro Se, alleged that based on the advice of Respondent Brian McClive ("McClive"), a broker at Respondent Olde Discount Corporation ("Olde"), he purchased 400 shares of Sigma Designs, Inc. stock in October, 1992. Claimant further alleged that sometime later, and shortly after he returned from a long trip from out of the country, he was contacted by Respondent Michael Tafelski ("Tafelski"), a broker at Respondent Olde, and was advised to sell his interest in Sigma Designs, Inc. Claimant contended that based on the advice of Respondent Tafelski he sold his interest in Sigma Designs, Inc. at a small profit of \$26.00. Claimant further contended that the Sigma Designs, Inc. stock made tremendous gains just after he sold it, and that Respondent Tafelski needed this stock for himself or another client and Claimant was his victim. Claimant alleged that just after he sold the stock in question he received two publications from Respondent Olde which advised Claimant to either hold or buy the stock in question. As a result of the above, Claimant contended that he has suffered damages for which the Respondents should be held liable.

Respondents Olde Discount Corporation, Brian McClive and Michael Tafelski, through Respondent Olde's in-house counsel Lisa S. Fildes, Esq., Detroit, Michigan, maintained that Claimant placed an unsolicited order to sell his shares

of Sigma Designs, Inc. on August 31, 1993. Respondents further maintained that with respect to Respondent McClive, Claimant has stated no claim against him. Respondents denied that Claimant's shares of Sigma Designs, Inc. stock were needed for another customer. Respondents contended that Respondent Olde's opinion of Sigma Designs, Inc. changed several times in the course of Claimant's holding. Respondents contended that at one point Sigma Designs, Inc. posted substantial losses and reported decreasing revenues, and that Respondent Tafelski passed this information on to Claimant. Respondents further contended that they should not be held responsible for Claimant's decisions or the unanticipated, extraordinary performance of a stock. As a result of the above, Respondents maintained that they should not be held liable in this matter.

RELIEF REQUESTED

Claimant Daniel Szymanski requested \$2,000.00 in actual damages, plus filing fee expenses.

Respondents Olde Discount Corporation, Brian McClive and Michael Tafelski requested that the Claimant's Statement of Claim be dismissed in its entirety.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, Dwight M. Cheever, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on February 22, 1994, by Respondent Olde Discount Corporation on May 26, 1994, by Respondent Brian McClive on May 26, 1994, and by Respondent Michael Tafelski on May 26, 1994.

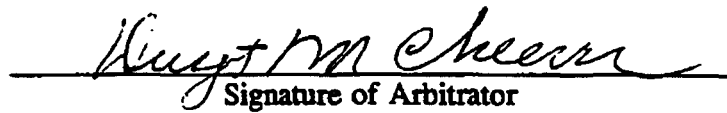
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimant Daniel Szymanski against Respondents Olde Discount Corporation, Brian McClive and Michael Tafelski are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

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AFFIRMATION

I, **DWIGHT M. CHEEVER, ESQ.**, do hereby affirm upon my oath of 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: November 9, 1994

