

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Frank Monachello

NASD Arbitration

No. 94-01643

Name of Respondent(s)

Olde Discount Corporation
James Duncan

REPRESENTATION

For Claimant: Gary R. Mitchell, Esq., Los Angeles, California

For Respondents: Karen L. Brink, Esq., Olde Discount Corporation,
Detroit, Michigan

CASE INFORMATION

Statement of Claim filed: May 2, 1994

Claimant's Submission Agreement signed: April 26, 1994

Joint Statement of Answer filed by Respondents: July 8, 1994

Respondents' Submission Agreements signed as follows:

Olde Discount Corporation: January 10, 1995

James Duncan: June 14, 1994

HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s): None

Hearing Date(s)/Session(s): March 28, 1995 (two sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant alleged that he suffered damages because of Respondents' failure to comply with instructions on January 31, 1993 with respect to Claimant's Retix Corp. investment. Claimant further alleged that his loss in the amount of \$32,751.00 was the result of unnecessary margin calls and the sale of Claimant's Retix Corp. shares more than three months after instructions to Respondents.

Respondents denied any liability to Claimant and alleged that Claimant made an informed decision to purchase 4000 shares of Retix Corp. stock on margin in his brokerage account. Respondents further alleged that they neither violated applicable securities laws nor did they breach any legal duties owed to Claimant and that Claimant was a wealthy investor who directed all trading activity in his account, both knowing and understanding the risks associated with each purchase he made. Respondents further alleged that this arbitration stems from a hindsight judgment call by Claimant that he would have avoided his losses if he had placed an order to sell his Retix Corp. shares before he left on vacation and that Claimant's losses resulted from unpredictable changes in market conditions and his own erroneous investment decisions, and not from any action or inaction by Respondents. Respondents also asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested damages in the amount of \$32,751.00 plus interest at the rate of 7% from February 1, 1993.

Respondents requested dismissal of Claimant's claims and requested costs.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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 National Association of Securities Dealers, Inc. (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. All claims by Claimant are dismissed.
2. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall refund the \$400.00 hearing session deposit previously deposited by the Claimant. Forum fees are assessed against: Respondent, Olde Discount Corporation, solely, in the amount of \$800.00, calculated as follows: Two hearing sessions times \$400.00/session.

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

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
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George M. Wiener, Esq.	Public Arbitrator
David Menaker	Public Arbitrator
James C. Walshe, III	Industry Arbitrator

Concurring Arbitrators' Signatures

George W. Higgins

George M. Wiener, Esq.

David Menaker

James C. Walshe, III

Served 4/28/95

Date of Decision: April 21, 1995

Concurring Arbitrators' Signatures

George M. Wiener, Esq.

David Menaker

David Menaker

James C. Walshe, III

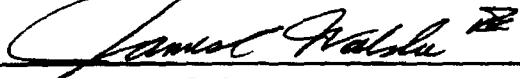
Served 4/28/95

Date of Decision: 7/20/95

Concurring Arbitrators' Signatures

George M. Wiener, Esq.

David Menaker



James C. Walshe, III

Served 4/28/95

Date of Decision: 3/28/95