

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Giovanni Cossu and Susan Cossu

94-02055

Name of Respondents

Olde Discount Corporation
Michael A. Barrella

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 3, 1994, Claimants Giovanni and Susan Cossu, who appeared Pro Se, alleged that Respondents Olde Discount Corporation ("Olde") and Michael A. Barrella ("Barrella") made a misrepresentation concerning the anticipated future value of a security. Claimants further alleged that on February 19, 1993, Respondent Barrella, their broker, recommended that they sell 1,000 shares of Digi International, Inc. in order to purchase 3,000 shares of Proteon, Inc. Claimants contended that Barrella said Proteon would be at \$10 per share or better by March 1994. Claimants further contended that the following morning, Barrella called with bad news about Proteon, Inc. which he had received the same day Claimants purchased the stock and that the stock would open around \$4 per share and that it could go lower. Claimants alleged that Barrella wanted to know where the money to cover the margin would come from so they felt pressured and sold Proteon to cover the margin call which caused a loss for which Respondent should be held liable.

Respondents Olde Discount Corporation and Michael A. Barrella, through their in-house counsel, Karen L. Brink, Esq., maintained that Claimants were not misled in any way into purchasing or subsequently selling shares of Proteon. Respondents further maintained that Claimants were aware, at the time of purchase, that Proteon was a small growth oriented stock that would fluctuate in price and this was the same type of stock Claimants had purchased on many previous occasions. Respondents contended that they should not be held responsible for an unexpected drop in Proteon's price of for Claimants' decision to sell Proteon before its price rebounded.

RELIEF REQUESTED

Claimants Giovanni and Susan Cossu requested \$8,069.50 in actual damages.

Respondents Olde Discount Corporation and Michael A. Barrella requested that the claims of the Claimants be dismissed.

AWARD


Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Guy Burnette, Jr., Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on May 5, 1994, by Respondent Olde Discount Corporation on August 23, 1994 and by Respondent Michael A. Barrella on July 22, 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 the Claimants Giovanni and Susan Cossu against Respondents Olde Discount Corporation and Michael A. Barrella are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc.

AFFIRMATION

I, GUY BURNETTE, JR., ESQ., do hereby affirm upon my oath as 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: March 14, 1995