

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Names of Claimants

David J. and Phyllis J. Cridge

94-02463

Names of Respondents

Olde Discount Corporation,
Jon Zabrocki, and
Andrea Charles Perkins

REPRESENTATION

Claimants, David J. and Phyllis J. Cridge were represented by Kevin D. Hofman, Esq. of Jacobson, Harwood, Brill & Bennett, Minneapolis, Minnesota.

Respondents, Olde Discount Corp., Jon Zabrocki, and Andrea Charles Perkins were represented by Ina N. Otto, Esq. of Olde Discount Corp., Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed with the National Association of Securities Dealers, Inc. ("NASD") on June 28, 1994.

Claimants, David J. and Phyllis J. Cridge's Submission Agreement was signed on June 22, 1994.

A Joint Statement of Answer was filed with the NASD by Respondents, Olde Discount Corp., Jon Zabrocki, and Andrea Charles Perkins on September 30, 1994.

Respondent, Olde Discount Corp.'s Submission Agreement was signed on August 24, 1994 by Bruce Campbell, Esq. Vice President and Corporate Attorney.

Respondent, Jon Zabrocki's Submission Agreement was signed on September 6, 1994.

Respondent, Andrea Charles Perkins' Submission Agreement was signed on September 13, 1994.

HEARING INFORMATION

The hearing dates were August 1, 1995 and August 2, 1995 and the hearing lasted for Four (4) hearing sessions.

The hearing location was Minneapolis, Minnesota.

CASE SUMMARY

Claimants, David and Phyllis Cridge ("the Cridges"), alleged that Respondents, Jon Zabrocki ("Zabrocki") and Andrea Charles Perkins ("Perkins"), as agents of Respondent, Olde Discount Corporation ("Olde"), acted in violation of Section 10b-10(b)5 of the Securities Act by engaging in fraud, omission of material facts, negligence, churning, and misrepresentation in the sale of securities. Further, the Cridges alleged that Respondents breached their fiduciary duty, violated the NASD rules, and committed common law fraud.

Specifically, the Cridges stated that they were unsophisticated investors who relied on Zabrocki and Perkins to make conservative recommendations. However, between October of 1993 and May of 1994 Zabrocki and Perkins repeatedly misrepresented and induced the purchase of speculative securities. In addition, Zabrocki and Perkins inappropriately purchased on margin and failed to inform the Cridges of the risks involved. Moreover, since Zabrocki and Perkins began to handle the Cridges' account, the annualized turnover rate of the account was 15.47 times. As a result of this conduct, the Cridges suffered a loss of approximately \$26,448.41.

Respondents, Olde, Zabrocki, and Perkins, denied the material allegations in the Statement of Claim. Respondents asserted that the Cridges were experienced investors making informed and independent decisions. Specifically, the Respondents alleged that the Cridges instructed Perkins to purchase aggressive investments and the Cridges elected to purchase on margin. Further, the Respondents alleged that at all times the Cridges were informed of and authorized the activity in the account. Moreover, on February 4, 1994 a letter was sent to the Cridges by Olde reminding the Cridges of the risks involved in short-term trading. The Cridges ignored the letter and continued the aggressive trading in the account. The losses incurred by the Cridges were the result of the Cridges' own conduct.

RELIEF REQUESTED

The Cridges requested an entry of an award against Respondents, jointly and severally, in excess of \$26,000.00 representing compensatory damages; punitive damages; attorneys' fees; costs; and other relief the Panel deems equitable.

Olde, Zabrocki and Perkins requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered or that the award may be signed in counterpart copy by the arbitrators. In either case, the parties have agreed to receive a conformed copy of the Award while the originals remain on file with the 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. Respondents Olde Discount Corp., Jon Zabrocki, and Andrea Charles Perkins shall be jointly and severally liable for and shall pay to the Claimants David J. and Phyllis J. Cridges the sum of \$4,000.00 for lost principal;
2. Respondents Olde Discount Corp., Jon Zabrocki, and Andrea Charles Perkins shall be jointly and severally liable for and shall pay to the Claimants David J. and Phyllis J. Cridges the sum \$826.63 as margin interest;
3. Respondents Olde Discount Corp., Jon Zabrocki, and Andrea Charles Perkins shall be jointly and severally liable for and shall pay to the Claimants David J. and Phyllis J. Cridges the sum of \$653.44 as costs of this proceeding;
4. Respondents Olde Discount Corp., Jon Zabrocki, and Andrea Charles Perkins shall be jointly and severally liable for and shall pay to the Claimants David J. and Phyllis J. Cridges the sum of \$1,400.00 as attorney's fees;
5. The claim for punitive damages is denied and dismissed in its entirety; and,
6. Any other claim for relief which was not specifically granted herein is also denied.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed. Four (4) hearing sessions x \$300.00 per session = \$1,200.00 in Forum Fees.

The National Association of Securities Dealers, Inc. shall retain the \$100.00 filing fee and the \$300.00 hearing session deposit previously paid by the Claimants, David J. and Phyllis J. Cridge. Respondents, Olde Discount Corp., Jon Zabrocki, and Andrea Charles Perkins shall be jointly and severally liable for and shall pay to the NASD the sum of \$900.00 as forum fees.

Additional Forum Fees assessed to the parties are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

/s/ Stephen B. Young
Stephen B. Young, Esq.
Presiding Chairperson
Public Arbitrator

August 11, 1995
Dated

/s/ Arlen G. Restad
Arlen G. Restad
Panelist
Public Arbitrator

August 14, 1995
Dated

/s/ Robert E. Robertson
Robert E. Robertson
Panelist
Industry Arbitrator

August 15, 1995
Dated

For NASD Use Only
Date Award Served on the Parties: August 25, 1995