

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Alan and Brenda Terry

95-00127

Name of Respondent(s)

Olde Discount Corporation

REPRESENTATION

For Claimants Alan and Brenda Terry: Jeffrey R. Nickerson, Esq., Atlanta, Georgia.

For Respondent Olde Discount Corporation: Timothy L. Isom, Esq., in-house counsel

CASE INFORMATION

Statement of Claim filed: January 9, 1995.

Claimants' Submission Agreement signed on: July 6, 1994.

Statement of Answer filed by Respondent Olde Discount Corporation on: March 8, 1995.

Respondent Olde Discount Corporation's Submission Agreement signed on: January 23, 1995.

HEARING INFORMATION

Hearing Date/Sessions: January 3, 1996 - Two Sessions

Hearing Location: NASD offices located in Atlanta, Georgia.

CASE SUMMARY

Claimants alleged that by year end 1990 Claimants had acquired 22,000 shares of Financial News Network common stock (FNN) through Olde Discount Corporation.

Claimants next alleged around noon, Tuesday, February 12, 1991, Brenda Terry phoned Respondent's broker, Russell Key, to place a market order to sell 10,000 shares of FNN. Mrs. Terry informed Mr. Key of the bid price and asked to place a market order to sell 10,000 shares of FNN. He requested that she "hold on" so he could confirm the price. After a long delay, Mr. Key informed Mrs. Terry that the price was at \$3.00 and no mention was made at that time of a halt in trading and Mr. Key simply agreed to call Mrs. Terry back upon execution of the order.

Claimants next alleged Brenda Terry again called Mr. Key around 12:30 to ascertain the price at which her earlier order had been executed and obtain a current market price in order to decide whether to sell additional shares of FNN and he informed her that trading in FNN had been halted pending additional news concerning the sale of the Company. Brenda Terry then asked Mr. Key whether he had been given any indication of the duration of the trading halt, and he said "No." She then stated, "Okay, I'll wait to hear back from you." Mr. Key stated, "Okay, I'll call you back."

Claimants next alleged Brenda Terry called Mr. Key and again asked if her order had been filled and when he stated it hadn't, she was shocked and dismayed and asked, "Not at any price?" He replied that it hadn't. Claimants alleged at no time during any of their conversations that day did Mr. Key ever state or imply to Brenda Terry that due to the trade halt, (1) she did not have a valid sell order or (2) she would need to place another order upon resumption of trading. By the close of the stock market that day, Mrs. Terry still had not received a call from Mr. Key regarding the sale of the FNN stock.

Claimants next alleged on February 14, 1991, Claimant Alan Terry went to the Olde office to meet with Mr. Key. When Alan Terry asked why his wife's market order was not executed on February 12th, Mr. Key replied, "There was no order." Mr. Terry did not understand Mr. Key's response and thus questioned it. Mr. Key then challenged his position and stated, "Brenda placed a limit order for \$3.00."

Claimants next alleged Olde Discount Corporation later asserted that the reason the trade wasn't executed was because of Olde's practice of not holding orders for securities in which trading has been halted.

Claimants next alleged they deny Respondent's broker, Mr. Key, ever told Brenda Terry that they had "no order" and deny that he made any statement of any such import and Respondents, in breach of its contract with Claimants, failed to execute Claimants' order with reasonable dispatch.

Respondent maintained this arbitration is an attempt by the Claimants to force their brokerage firm to reimburse them for losses they suffered after aggressively compiling a position in Financial News Network, as the price of FNN stock fell. Claimants acquired 22,000 shares of FNN stock over a period of about two months, from October 2, 1990 through December 12, 1990. But, Claimants were not rewarded for their speculation on the stock of FNN, as the price of FNN stock rapidly fell over a two day period, from February 11, 1991 through February 12, 1991 and trading was halted for a period of approximately one hour and 45 minutes on February 12, 1991; and the FNN Company subsequently declared bankruptcy.

Respondent next maintained Claimants engaged in their own aggressive strategy of "averaging down" as the price of FNN stock declined. Averaging down is not a conservative investment strategy, but instead, is a sophisticated strategy of investing. Furthermore, Claimants' aggressive speculation was their own independent investment decision, as FNN was a stock that OLDE's Research Department did not follow, and OLDE did not recommend to its clients. Claimants are now asking the arbitrators to force OLDE to reimburse them for losses they suffered as a result of an alleged sell order of 10,000 shares of FNN on February 12, 1991, an order that could never have been placed. The fact that Claimants tried to place a sell order on FNN while trading on FNN had been halted, and the fact that OLDE and their broker notified Claimants that they had "no order", are both well documented. Respondent further maintained Claimants received shares of Data Broadcasting stock in exchange for FNN stock (after the bankruptcy of FNN). This stock was held for some time before it was sold in 1994 and 1995 for over \$40,000.00. Claimants never entered another sell order in FNN stock so they did not realize any loss but on the contrary eventually had a profit on the stock which was the subject of this arbitration.

RELIEF REQUESTED

Claimants requested damages in the sum of \$25,625.00 plus interest from February 12, 1991 any expert witness fees and arbitration costs.

Respondent requested that the arbitrators enter an award providing: (1) Olde is obligated to pay the Claimants \$0.00, and (2) Claimants are liable to Olde for its costs and attorneys' fees incurred in defense of the claim.

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. The Claimants' claims be and hereby are dismissed in all respects.
2. The Respondent is liable and shall reimburse the Claimants the sum of \$50.00 representing a portion of the hearing session deposit.
3. Each party shall bear their respective costs including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:


Claim filing fee:	\$100.00
Hearing session deposit: \$400.00 x 2 =	\$800.00
Total fees:	\$900.00

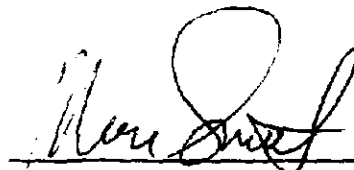
The undersigned arbitrators have determined that the Claimants shall bear one-half the cost of arbitration and the Respondent shall bear one-half the cost of arbitration.

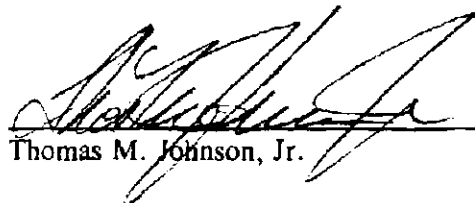
1. The Claimants are liable for the sum of \$450.00. Claimants previously paid \$500.00 and do not owe a balance.
2. The Respondent is liable and shall pay to the NASD the sum of \$400.00.

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

ARBITRATOR'S SIGNATURE


James E. Giblin, Esq.
Public Arbitrator


Marion Smith, II, Esq.
Public Arbitrator


Thomas M. Johnson, Jr.

Date of Decision: February 20, 1996