

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

J.C. Shupienis,

Claimant,

v.

No. 95-1563

Olde Discount Corporation,

Respondent.

REPRESENTATION OF PARTIES

The Claimant, J.C. Shupienis ("Claimant") was represented by Dan Hill, Esq. of Maple Grove, MN.

The Respondent Olde Discount Corporation ("Respondent") was represented by Ina Otto, Esq. in house counsel for Respondent.

CASE INFORMATION

Statement of Claim was filed on or about March 29, 1995.

Claimant's Submission Agreement was signed on March 7, 1995.

Statement of Answer was filed by Respondent on or about September 21, 1995.

Respondent's Submission Agreement was signed on July 24, 1995 by Thomas P. Fitzgerald, General Counsel.

HEARING INFORMATION

Hearing dates were April 23, 1996 for two (2) sessions.

Hearing Location was Minneapolis, MN.

CASE SUMMARY

Claimant, alleged that she opened an account at Respondent Company with account executives Jerry Oscarson and Eric Erickson. The Account executives allegedly held themselves out as experts in the area of high technology stocks. During the period following the opening of her account, Claimant alleges the following specific wrongdoing and causes of action: unauthorized trading, excessive trading, misrepresentation, breach of fiduciary responsibility and suitability.

Respondent denied that it committed any wrongdoing. Respondent alleged that Claimant's independent investment decisions lead to her losses and denied any liability for Claimant's losses.

RELIEF REQUESTED

Claimant requested that she be awarded the following damages: solicited commissions, solicited loss, unsolicited but recommended loss, NASD filing fee, unrealized losses in excess of \$10,000.00, for a total of \$70,542.00.

Respondent requested that all claims be dismissed in their entirety and that Respondent be awarded any costs and fees incurred in defending this action.

OTHER ISSUES CONSIDERED & DECIDED

A Motion to Bar Evidence and a Motion to Dismiss were brought by the Respondent prior to the beginning of the hearing, both motions were considered by the panel and denied. Prior to the hearing Claimant made a motion to Amend the Statement of Claim and the panel granted the motion and allowed the amendment. The Claimant's amendment addressed the failure of Jerry Oscarson to become licensed in the state in which he was conducting business.

The parties have agreed that the Award in this matter may be

executed by 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 NASD.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- (1). That the Respondent is liable for and shall pay to the Claimant \$60,000.00 as compensatory damages and \$4,448.09 as interest on said damages;
- (2). That the Respondent is liable for and shall pay \$20,000 in attorneys fees to Claimant pursuant to N. Dak. Stat. 10-04-17;
- (3). That other than forum fees which are addressed below, all relief not specifically awarded is hereby denied.

FORUM FEES

Pursuant to Section 43(c) of the Code, the following forum fees are assessed:

Two (2) hearing sessions x \$500.00 = \$1000.00 less the \$500.00 hearing session deposit previously deposited by Claimant for a total due of \$500.00.

Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$150.00, and shall retain the hearing session deposit in the amount of \$500.00 previously paid to the NASD by the Claimant. The Respondent shall reimburse the Claimant for the \$150.00 and \$500.00 fees previously paid by Claimant to the NASD. The Respondent is liable for and shall pay it Section 45 member surcharge in the amount of \$300.00.

The remaining forum fees in the amount of \$500.00 are assessed against Respondent.

Fees are payable to the National Association of Securities Dealers,

Inc.

CONCURRING ARBITRATORS

Dated:

Name:

6/14/96

/s/ George Beck
George A. Beck
Presiding Chair
Public Arbitrator

6/14/96

/s/ Thomas J. Gmeinder
Thomas J. Gmeinder
Public Arbitrator

6/17/96

/s/ Kathryn J. Hoy
Kathryn J. Hoy
Industry Arbitrator

Date of Service by the NASD: June 26, 1996