

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

---

**In the Matter of the Arbitration Between**

**Name of Claimant**

Lindy Lovern Thomas

95-05420

**Name of Respondent**

Olde Discount Corporation

---

**REPRESENTATION**

For Claimant: Guy M. Burns, Esq. of the law firm of Johnson, Blakely, Pope, Bokor, Ruppel & Burns, P.A., Tampa, Florida.

For Respondent: Ronald P. Kane, Esq. of the law firm of Gomberg Kane & Fischer, Ltd., Chicago, Illinois and Karen L. Brink, Esq. in-house counsel at Olde Discount Corporation.

**CASE INFORMATION**

Statement of Claim filed: November 16, 1995.

Claimant's Submission Agreement signed on: November 9, 1995.

Statement of Answer of Respondent dated February 1, 1996.

Respondent's Submission Agreement signed on: January 15, 1996.

**HEARING INFORMATION**

One pre-hearing conference and 6 sessions were conducted on September 26, 1996 and October 1, 2 and 3, 1996 in Tampa, Florida.

**CASE SUMMARY**

Claimant alleged that she is the former wife of Frank Thomas, who was also her broker at Olde Discount Corporation ("Olde") and she alleged that Frank Thomas forged her signature on all opening account documents, opened joint accounts without her knowledge, opened margin and

option agreements without her knowledge, and forged her signature on checks for withdrawals while the accounts were held at Olde. Claimant also contends that her former husband, Frank Thomas, began excessively trading her accounts in highly speculative securities and risky index options that were unsuitable for her given her stated investment objectives. Claimant alleged that Olde knew, or should have known, that Frank Thomas forged her signatures and that he had no authority, express, or implied to transact trading of any type on behalf of Lindy Thomas. Additionally, Claimant alleged that Olde was responsible for the conduct of Frank Thomas and for failing to properly supervise him. Next, Claimant alleged that as a result of the negligence, misrepresentations, the forgeries, and recommendation of unsuitable investments by the Respondent, Lindy Thomas has suffered substantial damages, ultimately losing nearly the entire inheritance that she had received from her father.

Respondent contended that since Claimant alleged at the hearing that her signatures on the account opening documents were forged and her former husband had no authority to transact any type of trading, that there was no agreement between Claimant and Respondent to arbitrate this dispute and the arbitrators lacked jurisdiction to hear the controversy. In the alternative and without waiving its jurisdictional objection, Respondent denied any liability to Claimant and alleged that as joint owner of the accounts, Claimant's former husband had authority to make deposits and withdrawals and direct the trading activity. Respondent also contended that all investments and trading activity were suitable and that Respondent fully and adequately performed all common law and statutory duties that were owed to Claimant and fully complied with all of its supervisory duties. Respondent also asserted that Claimant was barred from recovery by the doctrines of estoppel, waiver, ratification and statutes of limitation.

#### **RELIEF REQUESTED**

Claimant requested damages in the amount of \$142,180.13, plus statutory interest for a total of \$191,276.51, plus attorneys' fees and costs, punitive damages, and a ruling entitling the Claimant to receive attorneys' fees.

Respondent requested that the arbitrators determine that they lacked jurisdiction to hear this controversy. In the alternative, and without waiving its jurisdictional objection, Respondent requested that the arbitrators reject the claim of Claimant, dismiss the claims in their entirety and rule that the claim was brought and litigated in bad faith, thus entitling Respondent to receive its costs and attorneys' fees.

#### **OTHER ISSUES CONSIDERED & DECIDED**

The parties have agreed that the Award in this matter may be executed in 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 original(s) remain on file with the NASD.

After consideration of the parties' respective positions regarding the Respondent's assertion that there was no agreement between the Claimant and Respondent to arbitrate this dispute and that the panel, therefore, lacked jurisdiction to hear the matter, the arbitration panel determined that they had jurisdiction to decide the claims before them.

### AWARD

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

All claims by the Claimant against the Respondent be and hereby are denied in all respects.

The Claimant's request for punitive damages is denied.

Each party shall bear their respective costs including attorneys' fees.

### FORUM FEES

Pursuant to Section 10332 of the Code of Arbitration Procedure, the panel has assessed forum fees in the amount of \$4,800.00 (6 sessions x \$750.00) plus one pre-hearing conference (\$300.00).

Claimant is hereby assessed \$2,400.00 for which the NASD shall retain the \$750.00 previously deposited in partial satisfaction thereof leaving a balance due to the NASD of \$1,650.00.

Respondent is hereby assessed \$2,400.00.

The NASD shall retain the \$200.00 nonrefundable claim filing fee previously paid by the Claimant to the NASD.

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

Concurring Arbitrators' Signatures

Name

Public/Industry

/s/

\_\_\_\_\_  
Joseph A. Weston

Public

/s/

\_\_\_\_\_  
Muriel Desloovere, Esq.

Public

/s/

\_\_\_\_\_  
Joseph I. Amonette

Industry

November 19, 1996

Date of Decision: \_\_\_\_\_