

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Janet & Philippe Buillet

96-00322

Name of Respondents

Olde Discount Corporation
Tucker Anthony Incorporated

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 22, 1996, claimants Janet and Philippe Buillet, who appeared Pro Se, alleged that respondents Olde Discount Corporation ("OLDE") and Tucker Anthony Incorporated ("TAI"), failed to execute an order in a timely manner. Claimants alleged that on December 21, 1995, they placed an order to buy 1000 shares of Presstek with an OLDE broker. Claimants further alleged that they placed the order at 8:29 a.m. and were told that the bid-ask was at 86 to 86 3/4. Claimants also alleged that at 9:31 a.m. OLDE claimed that they placed the order with TAI. Claimants asserted that at 9:35 a.m. OLDE told them that the stock had not opened yet. Claimants further asserted that they asked OLDE to put a limit of 86 3/4 on their order, since they thought the stock had not opened. Claimants also asserted that at 9:37 a.m. OLDE called and told them that the order ticket was filled out at a price of 90 1/2. Claimants contended that later that day OLDE acknowledged that their answer pertaining to the 9:35 a.m. call was inaccurate because their computer was down at the time. Claimants further contended that the sale sheets showed that within the time span mentioned, 87 1/2 was the highest asked price for Presstek. Claimants further contended that their order was accidentally misplaced or deliberately delayed for the benefit of the market maker.

Respondent Olde Discount Corporation ("OLDE"), through its representative and corporate counsel, Julie D. Reed, maintained that OLDE properly took two orders from the claimants to purchase Presstek. Respondent OLDE further maintained that before the second order, the limit order, could be entered, the first order, the market order, was already filled out. Respondent OLDE also maintained that claimants did not complain that the second order, the limit order, was not filled; rather, they complained that the market order was not filled at or about the price quoted to them when they placed the order. Respondent OLDE contended that the market moved upwards and that the claimants order was filled at about \$3.00 more per share than they expected. Respondent OLDE further contended that they had no control over the market maker or the market, or as to the when or at what price the claimants order would be filled. Respondent also contended that respondent TAI is not an employee or agent of OLDE.

Respondent Tucker Anthony Incorporated ("TAI"), through its representative and in-house counsel Gerri

L. Seigel, maintained that the claimants never had an account or contract with TAI. Respondent TAI further maintained that at the time the order was given to TAI, OLDE was given the choice of purchasing the security from the street or have TAI purchase the security for OLDE. Respondent TAI also maintained that the stock was "resold" to OLDE at cost, with no profit to TAI. Respondent TAI contended that the transaction was a market facilitation order, thereby providing no benefit to TAI. Respondent TAI further contended that by the time they received notice of the limit order it was too late to cancel the market order. Respondent TAI also contended that they acted appropriately according to the rules which govern the Over-The-Counter market and the role of a market-maker in that market place.

RELIEF REQUESTED

Claimants Janet and Philippe Buillet, requested; \$3,000.00, representing the loss for the delay in the ticket order.

Respondent Olde Discount Corporation ("OLDE") requested that the case be dismissed in their entirety, with costs assessed against the claimants.

Respondent Tucker Anthony Incorporated ("TAI") requested that the case be dismissed against Tucker Anthony, Incorporated, as a matter of law.

AWARD

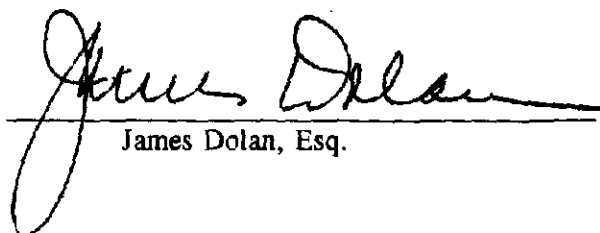
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Arbitrator, James Dolan, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by claimants, Janet and Philippe Buillet, on January 23, 1996 and by Respondents Olde Discount Corporation on February 15, 1996 and Tucker Anthony Incorporated on March 18, 1996.

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 claimants Janet and Philippe Buillet's claim against respondents Olde Discount Corporation and Tucker Anthony Incorporated are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the claimants Janet and Philippe Buillet shall be retained by the NASD, Inc.

AFFIRMATION

I, **JAMES DOLAN ESQ.**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my oath and award.


James Dolan, Esq.

Date of Decision: July 11, 1996