

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Noel M. and Esther Darden

96-00811

Name of Respondents

Olde Discount Corporation  
Steven A. Solano

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**REPRESENTATION**

The Claimants appeared pro se.

For Respondents: Julie D. Reed, Esq., in-house counsel at Olde Discount Corporation.

**CASE INFORMATION**

Statement of Claim filed on: February 23, 1996.

Amendment to Statement of Claim filed on: March 1, 1996.

Claimants' Submission Agreement signed on: February 20, 1996.

Joint Statement of Answer filed by Respondents on: April 9, 1996.

Respondent Olde Discount Corporation's ("Olde") Submission Agreement signed on: March 11, 1996.

Respondent Steven A. Solano's Submission Agreement signed on: April 9, 1996.

**HEARING INFORMATION**

Two hearing sessions were conducted in this matter on September 4, 1996 in Tampa, Florida.

**CASE SUMMARY**

Claimants alleged that the Respondents materially misrepresented the nature and quality of the investment in Portland General Electric, ("Portland") more specifically, the Respondents failed

to inform the Claimants of the risks involved in their investment and failed to provide the Claimants with a prospectus at the time of their investment. Claimants next alleged that the day after they made their investment in Portland, they contacted Mr. Solano to inform him that they wanted to rescind the transaction in order to purchase shares of stock in BellSouth, but the Respondent Solano refused to do so and stated that the investment had to be held for a one month period. Claimants next alleged thereafter they contacted Mr. Solano to inform him they wanted to sell the investment when the one month period had expired and, initially, Mr. Solano stated that the investment had to be held for another six months, but then told the Claimants that he would sell the investment if they sent him a letter confirming their request and stating that the transaction was unsolicited.

Respondents maintained that the Claimants unilaterally chose to forego an investment in BellSouth and while as a result of their own investments and decisions, they may have lost an opportunity to make larger gains, the Respondents should not be held accountable.. Respondents next maintained that they fully complied with their legal requirements in mailing the prospectus to the Claimants. Respondents next maintained that they did not tell the Claimants they could not rescind their transaction the following day but merely advised the Claimants of the costs involved if they chose to do so and neither law nor equity entitled the Claimants to rescission of their purchase merely because, on the following day, they regretted their previous day's decision to make the purchase. The Respondents next maintained that the letter referred to in the Statement of Claim that was requested by Mr. Solano was never made a condition of the sale, but was merely requested of them due to the short term holding period.

#### **RELIEF REQUESTED**

Claimants requested damages in the sum of approximately \$3,874.41 plus 6% interest and further requested reimbursement of travel expenses, time spent in preparation for the hearing and long distance telephone calls.

Respondents requested that the arbitrator dismiss the Claimants' claim and award the Respondents their costs.

#### **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.

#### **AWARD**

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

The Respondents be and hereby are liable, jointly and severally, and shall pay to the Claimants the sum of \$493.19, pre-judgment interest specifically excluded.

The Claimants' request for reimbursement of their costs is denied.

**FORUM FEES**

Pursuant to Section 10332 of the Code of Arbitration Procedure, forum fees in the sum of \$200.00 are assessed.

The Respondent Olde Discount Corporation is assessed \$200.00 for which the NASD shall retain the \$100.00 previously deposited by the Claimants in partial satisfaction thereof leaving a balance due to the NASD of \$100.00.

Respondent, Olde, shall reimburse the Claimant for their \$100.00 hearing session deposit.

The NASD shall retain the \$50.00 claim filing fee previously paid by the Claimants to the NASD.

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

Arbitrator's Signature

Name

Public/Industry

/s/

Public

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Elsie C. Turner, J.D.

November 22, 1996

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