

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Norman Susser, and
Gail Susser,

Claimants,

vs.

96-00976

OLDE Discount Corporation, and
Steve Yazbeck,

Respondents.

REPRESENTATION OF PARTIES

Norman Susser, and Gail Susser ("**Claimants**") appeared on their own behalf.

OLDE Discount Corporation ("**OLDE**"), and Steve Yazbeck ("**Yazbeck**") (jointly referred to as "**Respondents**") were represented by Ina N. Otto, Esq., of OLDE Discount Corporation, Detroit, Michigan.

CASE INFORMATION

Claimants filed the Statement of Claim on or about February 19, 1996. Claimants signed the Submission Agreement on March 4, 1996.

Respondents filed their joint Statement of Answer on or about May 21, 1996. Respondents' Submission Agreement was signed on May 3, 1996 and April 23, 1996 respectively.

HEARING INFORMATION

The Arbitration Panel held a hearing on June 3, 1997 in Scottsdale, Arizona for a total of one (1) session.

CASE SUMMARY

Claimants alleged that: Yazbeck inappropriately, and without solicitation, talked me out of selling SLMI at a profit; Claimants request in writing to OLDE to buy their 3500 shares of SLMI at \$9 per share, the price at which Claimants were talked out of selling, was met with a refusal and denial of responsibility; and OLDE is accountable for its representatives' inappropriate and unsolicited advice which caused Claimants to retain the SLMI shares and incur the loss.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated that: It was the wrongdoing on the part of SLMI's directors and officers which is the reason for Claimants' dissatisfaction with the performance of SLMI; it was the Claimants' independent decision to hold the stock for the time period they did; and the Claimants have to accept responsibility for the decision to purchase SLMI because they expressly placed each order and elected to hold the stock, even after it was suggested that they sell.

RELIEF REQUESTED

Claimants requested an award in the amount of \$31,500 plus interest and whatever additional award the arbitrators deemed appropriate.

Respondents requested that all of the Claimants' claims be denied in their entirety.

OTHER ISSUES CONSIDERED & DECIDED

Prior to the hearing, Respondents moved to dismiss the Statement of Claim on the grounds that Claimants' claims were part of the class action pending against SLMI and that Claimants failed to state a claim upon which relief could be granted. The Motion to Dismiss for failure to state a claim was renewed upon the conclusion of Claimants' evidence. After arguments were made by the parties, the arbitration panel, after careful consideration of the arguments of the parties as to the motion, concluded that under the evidence presented the evidence was such that there were no sufficient facts to justify any claim for an award against the Respondents. The Claimants failed to prove an actionable cause of action, and Respondents' Motion to Dismiss was granted. Respondents' Motion to Dismiss based on the SLMI class action was denied.

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 NASD Regulation, Inc. Office of Dispute Resolution.

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:

Claimants' claims against the Respondents are, and each of them, denied with prejudice.

Except as set forth below, each party shall bear its own costs, attorneys' fees, and expenses associated with this arbitration.

FORUM FEES

Forum fees are calculated at the rate of \$400 per hearing session. There was one (1) session x \$400 = \$400 in forum fees. Pursuant to §10332(b) of the NASD Code of Arbitration Procedure (the "Code") a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$120 and shall retain as forum fees one-half of the \$400 hearing session deposit previously deposited with NASD Regulation, Inc. Office of Dispute Resolution by the Claimant. The remaining \$200 of the hearing session deposit will be refunded to the Claimants.

Pursuant to §10333 of the NASD Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable member surcharge in the amount of \$200 previously paid by OLDE.

Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.

Dated:

Charles A. Finch
Charles A. Finch
Public Arbitrator, Presiding Chair

/s/

July 2, 1997

Louis M. Parker
Louis M. Parker
Public Arbitrator

/s/

July 7, 1997

Maurice O. O'Neill
Maurice O. O'Neill
Industry Arbitrator

/s/

July 2, 1997