

NASD REGULATION, INC. AWARD

NASD REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Olde Discount Corporation

NASD Case No.
96-02386

Name of Respondents

J&R Holdings, Inc.
Joseph Russo

REPRESENTATION

For Claimant Olde Discount Corporation ("claimant") appeared Robert S. Anderson, Olde Discount Corporation, Detroit, Michigan.

Respondent J & R Holdings, Inc. did not enter an appearance.

Respondent Joseph Russo ("Russo") did not enter an appearance.

CASE INFORMATION

Statement of Claim filed on June 4, 1996.

Claimant's Submission Agreement signed on May 23, 1996.

Respondent J & R did not submit a Statement of Answer or execute a Uniform Submission Agreement as required by Rule 10314(b) of the Code of Arbitration Procedure.

Respondent Russo did not submit a Statement of Answer or execute a Uniform Submission Agreement as required by Rule 10314(b) of the Code of Arbitration Procedure.

HEARING INFORMATION

Hearing Date/Sessions: February 3, 1997 - One Session

The hearing was held at the offices of the NASD, 33 Whitehall Street, New York, NY

CASE SUMMARY

Claimant alleged that on or about January 10, 1995, Russo as agent, secretary and president of J & R, opened and signed an Investors Account Application. Claimant also alleged that Russo signed a Corporation Account Agreement on or about January 10, 1995 authorizing trading in securities and

CASE SUMMARY

Claimant alleged that, on or about June 5, 1995, respondent commenced his employment with Rickel as Director of Recruiting. Claimant further alleged that, pursuant to its written agreement with respondent, it made advance payments to respondent totalling more than \$17,375.27 which respondent agreed to reimburse during the course of his employment. Claimant contended that, respondent terminated his employment and to date, had failed and refused to reimburse Rickel for the indebtedness.

Respondent maintained that his employment agreement with claimant provided that he was to receive a salary, which was to be offset by the commissions he earned as a producing broker. Respondent further maintained that the agreement did not state that, if he left the firm before the end of the contract, he would be required to pay back the salary he had received. Respondent contended that claimant had already offset his commissions with the salary he received and that he not owe anything to claimant.

RELIEF REQUESTED

Claimant requested damages in an amount to be determined upon the presentation of proof at the arbitration hearing, believed to be in excess of \$17,375.27. Claimant further requested all costs and expenses including, but not limited to, fees for preparation, trial and appeals and other legal proceedings in an amount to be determined at the arbitration hearing in this matter.

Respondent did not specifically request relief.

AWARD

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

1. All claims against respondent be and hereby are dismissed in their entirety.
2. Each party shall bear their own costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 44(c) of the Code of Arbitration Procedure, the arbitrator has determined that the NASD shall retain the \$500.00 non-refundable filing fee and the \$300.00 hearing session deposit previously paid by claimant as full consideration for the hearing conducted in this matter.

Arbitrator's Signature

Philip M. Mandel

Philip M. Mandel, Esq.
Industry Arbitrator

Date of decision: February 26, 1997

I, Philip M. Mandel, 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 award.

Philip M. Mandel

Philip M. Mandel, Esq.