

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Alfred G. and Mae Adele Lynch

96-02868

Name of Respondents

Olde Discount Corporation
Steven Solano

REPRESENTATION

For Claimant: Scott Taylor, Securities Arbitration Specialists, Inc., Vero Beach, Florida, Richard C. Migliaccio, LL.M., Winter Park, FL and Joel S. Hanover, Esq., Vero Beach, FL.

For Respondents: Ina N. Otto, Esq. and Amy Kutt Richards, Esq., in-house counsel at Olde Discount Corporation ("Olde").

CASE INFORMATION

Statement of Claim filed: July 5, 1996.

Claimants' Submission Agreement signed on: July 2, 1996.

Joint Statement of Answer filed by Respondents on: October 4, 1996.

Respondent Steven Solano's ("Solano") Submission Agreement signed on: September 3, 1996.

Respondent Olde's Submission Agreement signed on: August 23, 1996.

HEARING INFORMATION

One pre-hearing conference was conducted with the panel on January 20, 1997 and an additional pre-hearing conference was conducted with the Chairman on April 10, 1997. Two hearing sessions were conducted in this matter on May 6, 1997 in Tampa, Florida.

CASE SUMMARY

Claimants alleged that the Respondents Olde and Solano made fraudulent misrepresentations and omissions, false misrepresentations and recommended unsuitable securities. Claimants further alleged that the Respondents caused losses equalling \$32,638.00 with regard to trades recommended on three different stocks.

Respondents maintained the Claimants transferred their account to Olde from Dean Witter Reynolds, Inc. and shortly thereafter, the Claimants initiated the sale of their Chrysler stock on their own initiative, specifically to take advantage of Olde's offer of one trade commission free upon transfer of an account from another brokerage firm. Respondents further maintained they presented evidence that Mr. Solano had solicited the Claimants to purchase a Quarterly Income Preferred Security, which is a fixed income investment but the Claimants were not interested in this type of investment. Respondents next maintained that the Claimants had selected and chose to purchase Trimedyne on their own, without the aid or advice of Mr. Solano and that Trimedyne had been widely featured in national news on the day the Claimants made their purchase. Respondents next maintained they presented evidence that Trimedyne and Chrysler were not stocks followed or researched by Olde Discount Corp., and as such, Mr. Solano was strictly prohibited from offering any investment advice regarding these stocks. Respondents maintained that with respect to the Claimants' transactions in Chrysler and Trimedyne, Olde Discount Corp. and Solano acted merely in the capacity of an order taker. Respondents next maintained that despite now complaining that they regretted selling their Chrysler stock, Claimants never placed an order to re-purchase Chrysler, and after transferring their account from Olde Discount Corp. back to Dean Witter Reynolds Inc., Claimants continued to hold their C Cube Microsystems stock for several months, even though they testified that their Dean Witter Reynolds, Inc. broker told them it was not a good investment.

Next, Respondents asserted that Claimants failed to identify any fact or facts which were misrepresented to them. Moreover, Respondents maintained that in view of the financial means and objectives stated by the Claimants in their account application and subsequent confirmation letter (which they signed and returned to Olde Discount Corp.) and the other investments in Claimants' portfolio, both before and after they held an account with Olde Discount Corp. (which included Novell, Office Depot, Intel and Atmel), the recommendation of C Cube Microsystems was not unsuitable.

RELIEF REQUESTED

Claimants requested compensatory damages in the sum of \$32,638.00, lost earnings in the sum of \$1,181.00 plus costs, filing and hearing fees of \$2,600.00. The Claimants further requested that the panel consider awarding the amount of earnings lost to date of settlement plus attorneys' fees and other relief deemed appropriate.

Respondents requested that the claim be dismissed in its entirety. Respondents further requested that all references to this arbitration proceeding be expunged from the CRD record of Steven Solano.

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.

Prior to the commencement of the hearing, argument was heard on Respondents' motion to bar the presentation and/or to dismiss for Claimants' failure to comply with the Panel's order regarding discovery and failure to provide pre-hearing exchange materials as provided in the Code of Arbitration Procedure. The motion was denied.

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 Claimants be and hereby are dismissed in all respects.

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

All references to this arbitration proceeding shall be expunged from the CRD record of Respondent Steven Solano.

FORUM FEES

Pursuant to Section 10332 of the Code of Arbitration Procedure, forum fees in the sum of \$1,500.00 (one pre-hearing conference-panel \$400.00 plus one pre-hearing conference-Chairman \$300.00 plus two sessions x \$400.00) are assessed as follows:

The Claimants are assessed \$750.00 for which NASD Regulation, Inc shall retain the \$400.00 previously deposited in partial satisfaction thereof leaving a balance due of \$350.00.

The Respondent Olde is assessed the sum of \$750.00.

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

Concurring Arbitrators' Signatures

Name

Public/Industry

/S/

John P. Cullem, Esq.

Public

/S/

Kathleen M. Binder

Public

/S/

Elijah D. Armstrong

Industry

Date of Decision: May 29, 1997