

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Olde Discount Corporation

96-03056

Name of Respondent

Rachel Vance

REPRESENTATION

For Claimant Olde Discount Corporation ("Olde" or "claimant") appeared Robert S. Anderson, Esq. of the firm Olde Discount Corporation located in Detroit, Michigan.

Respondent Vance did not enter an appearance in this matter.

CASE INFORMATION

The Statement of Claim was filed on July 17, 1996.

Claimant Olde's Submission Agreement signed on July 10, 1996.

Respondent Rachel Vance did not file an Answer to the Statement of Claim nor did she execute a Submission Agreement.

HEARING INFORMATION

A hearing was scheduled for January 13, 1997 to be held in Buffalo, New York. Claimant filed a Motion requesting that Respondent be Precluded from presenting any matter or arguments at the hearing. The sole arbitrator selected to decide this matter granted the motion. The hearing scheduled for January 13, 1997 was canceled and a determination is being made on the pleadings submitted by Claimant.

CASE SUMMARY

Claimant alleged that on or about May 2, 1995, the Honorable Norman J. Wolf, Jr. of the Supreme Court, Erie county, granted an Order that Mellon Securities Transfer Service ("MSTS") shall forthwith Stop any transfer of any and all interests that Rachel Vance has with respect to Texaco Corporation including, but not necessarily limited to, any and all stock certificates held by Texaco Corporation, said transfer agent, herself, or a third person or entity. Claimant further alleged that on or about May 11, 1995, respondent placed an order with claimant to sell 1000 shares of Novell stock. Claimant also alleged that on or about May 11, 1995, respondent's sell order of 1000 shares of Novell stock was executed at \$20 3/8 per share. Claimant asserted that on or about May 15, 1995, respondent delivered to claimant's Phoenix office, 1000 shares of Novell stock, certificate U 95537. Claimant further asserted that on or about May 25, 1995, MSTS placed a stop order on certificate U 95537, as order by the

Honorable Norman J. Wolf. Claimant also asserted that on or about June 12, 1995, Olde informed respondent that a stop order was placed on certificate U 95537 and informed her that Olde would buy her back into the position. Claimant contended that respondent failed to tender funds or stock to cover the stop order placed on the 1000 shares of Novell and on or about June 12, 1995, Olde was forced, per Federal Regulation T, to buy-back 1000 shares of Novell. Claimant also contended that respondent has chosen to ignore Olde's demands for full payment of her outstanding debit account balance.

Respondent Rachel Vance did not file an Answer to the Statement of Claim nor did she execute a Submission Agreement.

RELIEF REQUESTED

Claimant Olde Discount Corporation requested \$20,284.54, plus interest, costs and attorneys' fees.

Respondent Rachel Vance did not file an Answer to the Statement of Claim nor did she execute a Submission Agreement.

OTHER ISSUES CONSIDERED & DECIDED

The arbitration panel made the following rulings as to respondent Rachel Vance who did not file a Statement of Answer nor did she execute a Submission Agreement.

1. In accordance with Rule 10101 and 10301 of the Code of Arbitration Procedure (the "Code"), the panel ruled that it had jurisdiction over respondent Rachel Vance, a public customer.
2. In accordance with Rule 10314 of the Code, the panel ruled that respondent Rachel Vance was served with the Statement of Claim and was given an opportunity to respond, which she failed to do.

Claimant made a motion to preclude respondent Rachel Vance from presenting any matter, arguments or defenses at the time of the hearing pursuant to Rule 10314(b) of the Code of Arbitration Procedure. The panel ruled that the motion be granted.

AWARD

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

1. Respondent Rachel Vance be and hereby is liable and shall pay claimant the sum of \$20,284.54, interest specifically excluded.
2. Claimant shall bear its own costs and attorneys fees.

FORUM FEES

Pursuant to Rule 10332 of the Code of Arbitration Procedure, the arbitrator has determined that NASD Regulation, Inc. shall retain the \$500.00 non-refundable file fee and \$300.00 hearing session deposit.

ARBITRATOR'S SIGNATURE

I, **Robert Gleichenhau, Esq.**, do hereby affirm pursuant to Article 7507 of the Civil Practice Law & Rules, that this is my decision in the above-captioned matter.

A handwritten signature in cursive script, appearing to read "Robert Gleichenhau".

Robert Gleichenhau, Esq.
Chairperson - Public Arbitrator

Date of Decision: April 10, 1997