

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Olde Discount Corporation

96-03274

Name of Respondent

Thomas L. Gray

CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on July 31, 1996, claimant Olde Discount Corporation (referred to as "OLDE" or "claimant") through its representative and in-house counsel Steven D. Carby, Esq. alleged that respondent Thomas L. Gray ("Gray") failed and refused to pay a debt to OLDE. Claimant further alleged that on or about July 2, 1993, respondent opened an investor account with it. Claimant also alleged that on or about October 12, 1995, Olde in error, deposited a check in the amount of \$3,000.00 into respondent's investment account. Claimant asserted that on November 14, 1995, OLDE issued a check in the amount of \$2,000.00 to Gray, which he subsequently deposited. Claimant further asserted that on or about November 30, 1995, Olde issued a check in the amount of \$1,000.00 to Gray, which is subsequently deposited. Claimant also asserted that as a result of the October 12, November 14, and November 30 checks, respondent Gray owes it \$3,000.00 as a result of overpayment to him. Claimant contended that it notified Gray by letter dated December 19, 1995, of the error resulting in the overpayment and request for the return of the funds.

Respondent Gray did not file an Answer to the Statement of Claim nor did he execute a Submission Agreement.

RELIEF REQUESTED

Claimant OLDE requested \$3,000, exclusive of accrued interest, costs, and attorneys' fees as may be deemed fair and just.

Respondent Gray did not file an Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED & DECIDED

In accordance with Rule 10302 of the Code of Arbitration Procedure, respondent Thomas Gray, was served by regular mail and given an opportunity to respond, which he failed to do. In addition, notice of the overdue answer and notification of the Arbitrator's identity was effected upon respondent Thomas Gray by certified mail.

Pursuant to the By-laws of NASD Regulation, the arbitrator determined that respondent Thomas Gray had notice of the claim, and was required to submit to this arbitration proceeding; and is, therefore bound by the arbitrator's ruling and determination.

AWARD


Pursuant to Rule 10302 of the Code of Arbitration Procedure, a single Public Arbitrator H.B. Williams, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by claimant OLDE on July 30, 1996. Respondent Thomas Gray did not execute a Submission Agreement as required pursuant to Rules 10301 and 10302 of the Code of Arbitration Procedure.

And, the arbitrator, having considered the proof of the parties, has decided and determined in full an final resolution of the issues submitted for determination as follows:

1. Respondent Thomas Gray be and hereby is liable and shall pay claimant the sum of \$3,000.00.
2. Respondent Thomas Gray be and hereby is liable and shall pay claimant an interest rate of the brokers call rate plus one and one-half percent from November 14, 1995 to February 14, 1997.
3. Respondent Thomas Gray be and hereby is liable and shall pay claimant the sum of \$718.75, representing attorneys' fees awarded.
4. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers Regulation, Inc. shall be retained by NASD Regulation. Respondent Thomas Gray be and hereby is liable and shall pay claimant the sum of \$575.00 as reimbursement of the filing fee.

AFFIRMATION

I, **H. B. Williams**, do hereby affirm upon my oath as arbitrator that I am the individual described herein, who executed this instrument, which is my oath and award.


H. B. Williams

Date of Decision: March 26, 1997