

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Olde Discount Corporation

96-04876

Name of Respondents

William and Leslie Long

CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on November 1, 1996, claimant Olde Discount Corporation ("Olde" or "claimant") through its representative and in-house counsel Robert Anderson, Esq., alleged that respondents William and Leslie Long ("respondents"), failed to pay for their outstanding account balance. Claimant further alleged that respondents placed an unsolicited order to sell 500 shares of Dataware Technologies Incorporated ("DTI"). Claimant also alleged that before the said order was entered it was read back to and confirmed by Mr. Long for its accuracy per Olde's policy. Claimant asserted that on or about July 26, 1996, Olde sent a trade confirmation to respondents, confirming their executed order. Claimant further asserted that on or about August 7, 1995, Mr. Long placed an unsolicited order to buy 400 shares of Arakis Energy Corporation ("Arakis"). Claimant also asserted that on or about August 9, 1995, Mr. Long placed an unsolicited order to buy 400 shares of Arakis. Claimant contended that on or about August 9, 1995, Mr. Long placed an unsolicited order to sell 500 shares of Netmanage Incorporated stock ("Netmanage"). Claimant further contended that on or about August 9, 1995, Olde sent respondents a maintenance call in the amount of \$8,888.64. Claimant also contended that the maintenance call was a result of the net equity in respondents account falling below the minimum deposit required in a margin account as set forth by NYSE.

Claimant alleged that as of August 25, 1995, respondents account had a net market value of priced securities of \$9,500.00, a margin debt of \$8,930.00 and a net equity of \$569.32. Claimant further alleged that on or about August 23, 1995, Arakis stock was halted on all exchanges. Claimant also alleged that on or about September 22, 1995, Arakis began trading again. Claimant asserted that on or about September 22, 1995, Olde's registered representative James Witczak called Mr. Long and asked them how they wanted to meet their margin call. Claimant further asserted that respondents elected to sell 800 shares of Arakis instead of bringing in good funds or stock to cover their margin call. Claimant also asserted that the proceeds from the sale of Arakis were not sufficient to cover respondents margin call.

Respondents William and Leslie Long ("respondents"), who appeared Pro Se, maintained that James Witczak ("Witczak") incorrectly placed their order. Respondents further maintained that Witczak was aware that Mr. Long was an unsophisticated trader and had very little experience in the securities field. Respondents also maintained that Mr. Long's strategy had been to buy a stock, hold it, and made two

points and then sell. Respondents contended that Mr. Long purchased 400 shares of Arakis stock at 16 1/4 before this transaction took place. Respondents further contended on August 8th 1995, Mr. Long spoke with Mr. Witczak concerning a purchase of an additional 400 shares of Arakis stock at 20 7/8. Respondents also contended that Mr. Long was informed by Witczak that the market was closed and that we would have to make the purchase the next day. Respondents maintained that at no time did Mr. Long authorize Witczak to make an open market order for the 400 shares. Respondents further maintained that they were not aware the purchase at the 24 7/8 price until Mr. Long received the order confirmation from Olde in the mail. Respondents also maintained once he received the confirmation, Mr. Long contacted Witczak and brought the error to his attention. Respondents contended that Witczak executed an order that was not authorized by him. Respondents further contended that the purchase was a mistake made by Witczak which in turn caused him to lose the additional shares that I had purchased in order to cover the margin call.

RELIEF REQUESTED

Claimant Olde requested \$3,801.11, plus interest, costs, filing fees and attorneys' fees.

Respondents William and Leslie Long requested that the claims of claimant be dismissed in their entirety.

AWARD

Pursuant to Rule 10302 of the Code of Arbitration Procedure, a single Public Arbitrator Richard Porter, Esq., was selected to review the matter in controversy between the parties set forth in Submissions to Arbitration signed by claimant Olde on October 22, 1996. Respondents William and Leslie Long did not execute a Submission Agreement as required by 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 and final resolution of the issues submitted for determination as follows:

1. Respondents William and Leslie Long be and hereby are jointly and severally liable and shall pay claimant the sum of \$2,196.64.
2. All other relief requests are denied.
3. The \$575.00 filing fee previously deposited by claimant shall be retained by NASD Regulation, Inc. Respondents William and Leslie Long be and hereby are jointly and severally liable and shall pay claimant the sum of \$575.00 as reimbursement of the filing fee.

AFFIRMATION

I, **Richard Porter, Esq.**, 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.

A handwritten signature in dark ink, appearing to read "Richard G. Porter", is written over a horizontal line.

Richard G. Porter, Esq.

Date of Decision: May 19, 1997