

AWARD
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Joseph B. Marsh,

Claimant.

v.

No. 97-06037

Olde Discount Corporation.

Respondent.

REPRESENTATION OF PARTIES

Claimant Joseph B. Marsh ("Claimant") appeared pro se.

Respondent Olde Discount Corporation ("Respondent") was represented by Lisa S. Fildes, Esq. of Olde Discount Corporation located in Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about December 30, 1997.

Claimant's Submission Agreement was signed on December 17, 1997.

The Statement of Answer was filed on or about April 1, 1998.

Respondent's Submission Agreement was signed on February 17, 1998.

HEARING INFORMATION

The telephonic hearings were held on September 9, 1998 for one (1) session and October 2, 1998 for one (1) session.

The hearing was held on February 3, 1999 for one (1) session in Cleveland, Ohio.

CASE SUMMARY

Prior to the start of trading on November 13, 1997, Claimant held 25,000 shares of Applied Materials, Inc. ("AMAT"), and was short 100 calls on AMAT at 35, to expire November 22,

1997. Claimant contended that, by the close of trading, Respondent had improperly sold all of Claimant's 25,000 shares of AMAT without proper authorization. Claimant alleged that he only authorized Respondent to sell 15,000 shares, and intended to leave 10,000 shares to cover his short call position.

Respondent contended that Claimant authorized all trades in question. Respondent alleged that each order in question was read back to Claimant prior to entry and each execution was reported back to him. Respondent asserted that, in any event, the transactions in dispute resulted in a net profit of \$31,613.41.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested an award of compensatory damages in the amount of \$47,500, plus attorney fees, as well as additional fees, including: filing fees, postage expenses, and other costs.

Respondent requested that the Statement of Claim be dismissed in its entirety with prejudice.

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 NASD Regulation, Inc. Office of Dispute Resolution.

AWARD

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

- (1) That the Statement of Claim is dismissed in its entirety with prejudice;
- (2) That other than forum fees which are specified below, the parties shall each bear their own costs, attorney fees and expenses incurred in this matter; and
- (3) That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration No. 97-06037
Award Page 3 of 3

FORUM FEES

Forum fees are calculated at the rate of \$400 per hearing session and \$300 for each pre-hearing conference, if any. There were three(3) hearing sessions x \$400 = \$1,200 in forum fees. Pursuant to Rule 10332(b) of the Code, a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less. Pursuant to Rule 10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$120 and shall retain as forum fees the hearing session deposit in the amount of \$400 previously deposited by the Claimant. Pursuant to Rule 10332(c) of the Code, Claimant is liable for and shall pay ~~the~~ forum fees in the amount of \$200 (1/2 forum fees - hearing session deposit). Pursuant to Rule 10332(c) of the Code, Respondent is liable for and shall pay ~~the~~ forum fees in the amount of \$600 (1/2 forum fees ~~hearing session deposit~~). * *[Signature]*

OTHER COSTS

Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Regulation, Inc. the \$800 member surcharge previously invoiced.

Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.

Concurring Arbitrators' Signatures:

Elmer G. Cowan, Esq.
Chairperson
Public Arbitrator

Dated: _____

[Signature: George B. Davis]
George B. Davis
Panelist
Public Arbitrator

[Signature: 2-22-99]
Dated: _____

Bert Cliff
Panelist
Industry Arbitrator

Dated: _____

For NASD Regulation use only:
Date award served on parties: _____

NASD Regulation, Inc. Office of Dispute Resolution
 Arbitration No. 97-06037
 Award Page 3 of 3

FORUM FEES

Forum fees are calculated at the rate of \$400 per hearing session and \$300 for each pre-hearing conference, if any. There were three(3) hearing sessions x \$400 = \$1,200 in forum fees. Pursuant to Rule 10332(b) of the Code, a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less. Pursuant to Rule 10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$120 and shall retain as forum fees the hearing session deposit in the amount of \$400 previously deposited by the Claimant. Pursuant to Rule 10332(c) of the Code, Claimant is liable for and shall pay ~~the~~ forum fees in the amount of \$200 (1/2 forum fees - hearing session deposit). Pursuant to Rule 10332(c) of the Code, Respondent is liable for and shall pay ~~the~~ forum fees in the amount of \$600 (1/2 forum fees ~~hearing session deposit~~).

OTHER COSTS

Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Regulation, Inc. the \$800 member surcharge previously invoiced.

Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.

Concurring Arbitrators' Signatures:

Elmer G. Cowan

Elmer G. Cowan, Esq.
 Chairperson
 Public Arbitrator

FEB 22 1999

Dated:

George B. Davis
 Panelist
 Public Arbitrator

Dated:

Bert Cliff
 Panelist
 Industry Arbitrator

Dated:

For NASD Regulation use only:
 Date award served on parties: _____

Attn: Todd Saltzman

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration No. 97-06037
Award Page 3 of 3

FAX 1-312-236-923

FORUM FEES

Forum fees are calculated at the rate of \$400 per hearing session and \$300 for each pre-hearing conference, if any. There were three(3) hearing sessions x \$400 = \$1,200 in forum fees. Pursuant to Rule 10332(b) of the Code, a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less. Pursuant to Rule 10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$120 and shall retain as forum fees the hearing session deposit in the amount of \$400 previously deposited by the Claimant. Pursuant to Rule 10332(c) of the Code, Claimant is liable for and shall pay ~~all~~ forum fees in the amount of \$200 (1/2-forum fees - hearing session deposit). Pursuant to Rule 10332(c) of the Code, Respondent is liable for and shall pay ~~all~~ forum fees in the amount of \$600 (1/2 forum fees ~~plus hearing session deposit~~ it).

* ABC

* ABC

OTHER COSTS

Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Regulation, Inc. the \$800 member surcharge previously invoiced.

Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.

Concurring Arbitrators' Signatures:

Elmer G. Cowan, Esq.
Chairperson
Public Arbitrator

Dated:

George B. Davis
Panelist
Public Arbitrator

Dated:

Bert S Cliff
Bert Cliff
Panelist
Industry Arbitrator

2-18-99
Dated:

For NASD Regulation use only:
Date award served on parties: _____

oh
BSC