

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Christy L. Saller, (Claimant) vs. Olde Discount Corporation, (Respondent and Third-party Claimant) and Jeff Ohe (Respondent and Third-party Claimant) v. Jason Saller Herbert (Third Party Respondent).

Case Number:
99-00119

Hearing Site:
Houston, Texas

REPRESENTATION OF PARTIES

Claimant, Christy L. Saller ("Saller"), hereinafter referred to as "Claimant": Annette M. Henry, Esq., Law Offices of Annette M. Henry, Houston, Texas.

Respondent and Third-party Claimant, Olde Discount Corporation ("Olde"), hereinafter referred to as "Olde": William B. Federman, Esq., Day Edwards Federman Propester & Christensen, P.C., Oklahoma City, Oklahoma.

Respondent and Third-party Claimant, Jeff Ohe ("Ohe"), hereinafter referred to as "Ohe": William B. Federman, Esq., Day Edwards Federman Propester & Christensen, P.C., Oklahoma City, Oklahoma.

Third Party Respondent, Jason Saller Hebert ("Hebert"), hereinafter referred to as "Third Party Respondent": Annette M. Henry, Esq., Law Offices of Annette M. Henry, Houston, Texas; Co-Counsel, Willaim Shepherd, Esq. Of Shepard & Smith, Houston, Texas.

CASE INFORMATION

Statement of Claim filed on or about: January 12, 1999

Claimant, (Saller), signed the Uniform Submission Agreement: February 18, 1999.

Statement of Answer filed by Respondents and Third-party Claimants, (Olde and Ohe), on or about: May 11, 1999

Respondents and Third-Party Claimants, (Olde and Ohe), filed a Counterclaim against Claimant, (Saller), and a Third-Party Claim against Third-Party Respondent, (Hebert), on or about: May 11, 1999

Respondent and Third Party Claimant, (Olde), signed the Uniform Submission Agreement: March 19, 1999

Respondent and Third Party Claimant, (Ohe), signed the Uniform Submission

Agreement: April 23, 1999

Respondent, (Olde), filed a Motion for Default Judgment on their Counterclaim and Third-Party Claim and an alternative Motion for Sanctions, on or about: December 2, 1999.

Third Party Respondent, (Hebert), filed a Motion to Dismiss Third-Party Claim Based on Lack of Jurisdiction, on or about: December 16, 1999.

Respondents' and Third-Party Claimants filed a Reply to Third-Party Respondent's Motion to Dismiss Based on Lack of Jurisdiction, on or about: December 28, 1999.

Third Party Respondent, (Hebert), filed an Answer to Third Party Claimants' Claim, on or about: March 20, 2000

Claimant, (Saller), filed an Amended Statement of Claim, on or about: March 20, 2000.

Respondents and Third Party Claimants, (Olde and Ohe), filed a Motion to Enforce Contractual Choice of Law Provision and Apply Michigan Law, on or about: April 25, 2000.

Claimant, (Saller), and Third Party Respondent, (Hebert), filed an Objection to Respondents' and Third Party Claimants' Attempt to Apply Michigan Law, on or about: April 26, 2000.

Respondents and Third Party Claimants, (Olde and Ohe), filed a Response to Claimant and Third Party Respondent's Objection to Respondents' Attempt to Apply Michigan Law, on or about: May 17, 2000.

Respondents and Third Party Claimants, (Olde and Ohe), filed a Motion for Sanctions Against Claimant, (Saller), and Third Party Respondent, (Hebert), on or about: April 24, 2000.

Claimant, (Saller), and Third Party Respondent, (Hebert), filed a Response to Respondents' and Third Party Claimants' Motion for Sanctions, on or about: May 15, 2000.

CASE SUMMARY

Claimant asserted the following causes of action:

1. Excessive Trading/Churning
2. Unauthorized Trading
3. Failure to Supervise
4. Breach of Contract and Warranties, Promissory Estoppel
5. Violation of Texas Deceptive Trade Practices Act
6. Violation of the Securities Exchange Act of 1934
7. Violation of Texas Securities Statutes
8. Intentional and negligent misrepresentations of material facts upon which Respondents intended Claimant to rely upon and upon which Claimant did rely, causing damages to Claimant.
9. Unjust enrichment.
10. Breach of Fiduciary Duties.

11. Intentional, negligence, gross negligence, and/or actions with reckless disregard causing harm to Claimant's person or property.

12. Respondents proximately and otherwise caused damages to the Claimant, including lost assets, lost opportunities, consequential losses, and injury to Claimant's person and/or property, including mental anguish and emotional distress.

Unless specifically admitted in its Answer, Respondents and Third Party Claimants denied the allegations made in the Statement of Claim and asserted the following defenses:

1. Claimant's and Third-Party Respondent's failure to voice any objection to trades until after closing account demonstrates ratification of transactions.
2. Claimant waived any claim to recover any alleged damages flowing from investment decisions.

Respondent and Third-Party Claimant (Olde) asserted the following Counterclaim and Third-Party Claim:

1. Indemnification.

Unless specifically admitted in its Answer, Third-Party Respondent denied the allegations made in the Third-Party Claim.

Unless specifically admitted in its Answer, Claimant denied the allegations made in the Counterclaim.

RELIEF REQUESTED

Claimant(s) requested:

| | |
|--|----------------|
| Compensatory Damages | \$250,000.00 |
| Punitive Damages | Requested |
| Interest | Requested |
| Attorneys' Fees | Requested |
| Other Costs | Requested |
| Other Monetary/Non-Monetary Relief if any: | None Requested |

Respondent Counterclaimant and Third-Party Claimant (Olde/Ohe) requested:

| | |
|--|----------------|
| Compensatory Damages | \$400,000.00 |
| Punitive Damages | None Requested |
| Interest | None Requested |
| Attorneys' Fees | Requested |
| Other Costs | Requested |
| Other Monetary/Non-Monetary Relief if any: | None Requested |

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitration Panel denied the Respondents' and Third Party Claimants', (Olde and Ohe), Motion for Sanctions.

The Arbitration Panel denied the Respondents' and Third Party Claimants' Motion to Apply Michigan Law.

The Arbitration Panel dismissed the Third Party Claim against Third Party Respondent, (Hebert).

The Arbitration Panel dismissed the Counterclaim against Claimant, (Saller).

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.

AWARD

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

The Respondents, Olde Discount Corp. and Jeff Ohe, are jointly and severally Joint and severally liable for \$110,534.37 in compensatory damages to Claimant, Christy L. Saller

The Arbitration Panel ordered that each party be responsible for their costs and attorneys' fees.

Any and all relief not specifically addressed herein, including is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

| | |
|---|------------|
| Initial claim filing fee | = \$200.00 |
| Counterclaim/Third party claim filing fee | = \$500.00 |

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the event giving rise to the dispute. In this matter, the member firm:

| | |
|-------------------------|--------------|
| Member surcharge | = \$1,500.00 |
| Pre-hearing process fee | = \$ 600.00 |
| Hearing process fee | = \$2,500.00 |

Adjournment fees The parties made a joint request for Adjournment of the March 8th & 9th

2000, Hearing dates. Claimant Christy Saller, Respondents and Counterclaimants Olde and Ohe, and Third party Respondent, Herbert, jointly and severally.

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

| | |
|---|--------------------|
| One (1) Pre-hearing conference with Panel x \$750. | = \$ 750.00 |
| Pre-hearing conference: October 27, 1999 | 1 session |
| One (1) Pre-hearing conference with single arbitrator x \$300 : | = \$300.00 |
| Pre-hearing conference: March 28, 2000 | 1 session |
| Seven (7) Hearing sessions x \$750.00 | = \$5250.00 |
| Hearing Dates: | |
| August 22, 2000 | 2 sessions |
| August 23, 2000 | 2 sessions |
| August 24, 2000 | 3 sessions |
| Total Forum Fees | = \$6300.00 |

1. The Arbitration Panel has assessed \$2625.00 of the forum fees **jointly and severally** to Claimant (Saller) and Third party Respondent (Herbert)
2. The Arbitration Panel has assessed \$3300.00 of the forum fees **jointly and severally** to Respondents and Third Party Claimants, (Olde and Ohe).
3. The Arbitration Panel has assessed \$375.00 **solely** to Claimant, (Saller).

Fee Summary

1. Claimant, (Saller), be and hereby is solely liable for:

| | |
|---------------------------|------------|
| <u>Initial Filing Fee</u> | = \$ 200 |
| <u>Adjournment</u> | = \$ 250 |
| <u>Forum Fees</u> | = \$ 375 |
| <u>Total Fees</u> | = \$ 825 |
| <u>Less payments</u> | = \$ 950 |
| <u>Balance</u> | = \$ (125) |

This \$125 will be applied to the Forum Fees owed jointly and severally by Saller and Hebert and listed below.

2. Respondent (Olde) be and hereby is solely liable for:

| | |
|---|-----------|
| <u>Member Fees</u> | = \$4,600 |
| <u>Total Fees</u> | = \$4,600 |
| <u>Less Payments</u> | = \$3,350 |
| <u>Balance Due to NASD Dispute Resolution, Inc.</u> | = \$1,250 |

3. Respondent Herbert is solely liable for:

| | |
|--|----------|
| <u>Adjournment fee</u> | = \$ 250 |
| <u>Total Fees</u> | = \$ 250 |
| <u>Less Payments</u> | = \$ 0 |
| <u>Total Balance due NASD Dispute Resolution, Inc.</u> | = \$ 250 |

3. Respondents and Counter-Claimants/Third-Party Claimants, (Olde and Ohe), be and hereby are jointly and severally liable for:

| | |
|---|------------|
| <u>Counter-Claim/Third Party Claim Filing Fee</u> | = \$ 500 |
| <u>Forum Fees</u> | = \$ 3,300 |
| <u>Adjournment Fees</u> | = \$ 250 |
| <u>Total Fees</u> | = \$ 4,050 |
| <u>Less payments</u> | = \$ 0 |
| <u>Balance Due NASD Dispute Resolution, Inc.</u> | = \$ 4,050 |

4. Claimant, Saller, and Third Party, Herbert, respondent are jointly and severally liable for:

| | |
|--|------------|
| <u>Forum Fees</u> | = \$ 2,625 |
| <u>Total Fees</u> | = \$ 2,625 |
| <u>Less payments (by Saller listed above)</u> | = \$ 125 |
| <u>Balance Due NASD Dispute Resolution, Inc.</u> | = \$ 2,500 |

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signature(s)

Thomas D. Nagle
Public Arbitrator, Presiding Chair

Signature Date

Sandra W. Leasure
Arbitrator

Signature Date

Dale A. Hearn
Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution, Inc. office use only)

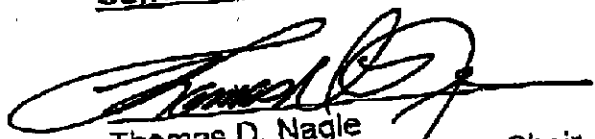
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NASD REGULATION

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Concurring Arbitrators' Signature(s)



Thomas D. Nagle
Public Arbitrator, Presiding Chair

10-16-00
Signature Date

Sandra W. Leasure
Arbitrator

Signature Date

Dale A. Hearn
Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution, Inc. office use only)

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Concurring Arbitrators' Signature(s)

Thomas D. Nagle
Public Arbitrator, Presiding Chair

Signature Date

Sandra W. Leasure
Arbitrator

Signature Date

Dale A. Hearn
Dale A. Hearn
Arbitrator


10-10-00
Signature Date

Date of Service (For NASD Dispute Resolution, Inc. office use only)

Concurring Arbitrators' Signature(s)

Thomas D. Nagle
Public Arbitrator, Presiding Chair

Signature Date



Sandra W. Leasure
Date
Arbitrator



Signature

Dale A. Hearn
Arbitrator

Signature Date

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