

**N.A.S.D. REGULATION AWARD**  
**NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.**

CASE: 99-00634

Daniel S. Hoshiyama and Tom T. Hoshiyama, claimants vs. Olde Discount Corporation and Keith Campbell, respondents.

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**ATTORNEYS:**

Claimants, Daniel S. Hoshiyama and Tom T. Hoshiyama, appeared Pro Se., San Francisco, CA.

For Respondents, Olde Discount Corporation and Keith Campbell, appeared Donald P. Wray, Jr., Detroit, MI.

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DATE FILED: 02/12/99

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**CASE SUMMARY:** Claimants alleged that after claimant, Daniel Hoshiyama, instructed his father to purchase two stocks, Dell Computer and Microsoft, respondent, Keith Campbell, persuaded claimant, Tom Hoshiyama, to make additional purchases totaling \$37,000.00. Claimant, Daniel Hoshiyama, upon discovering those purchases, contacted respondent, Keith Campbell, and informed respondent, Keith Campbell, that he was not to make any future trades without his approval, as his father was nearly 80 years old. Claimants further alleged that respondent, Keith Campbell, without claimant, Daniel Hoshiyama's authorization. Respondent, Keith Campbell, solicited additional trades from claimant, Daniel Hoshiyama's father, after being instructed not to do so in the future. In addition, Claimant, Daniel Hoshiyama, proceeded to file complaints with respondent, Olde Discount, Keith Campbell's employer, as well as with the SEC. In addition, respondent, Olde Discount, failed to supervise and maintain their fiduciary duty.

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**Claim Data**

Claim: \$9,600.00  
Punitive: unspecified  
Filing Fees: \$150.00  
Other: \$.00  
Costs: \$82.00  
Interest: .00

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**Award Data**

Award: \$9,600.00  
Punitive: \$.00  
Filing Fees: \$150.00  
Other: \$.00  
Costs: \$82.00  
Interest: pre-award interest is awarded @ rate of 10% per annum, compounded monthly, only if the award is not paid within thirty (30) days from Olde Discount's receipt of the award

**AWARD:** The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) Respondent, Olde Discount, is liable and shall pay to the claimants \$9,600.00 within 30 days of their receipt of the award, hereinafter "the due date." 2) Claims of claimants are dismissed against respondent, Keith Campbell. 3) All requests for punitive damages are denied. 4) Respondent, Olde Discount, shall pay to the claimants \$82.00 in costs. 5) Respondent, Olde Discount, shall pay to claimants pre-award interest at the rate of 10% per annum, compounded monthly, only if the award is not paid within thirty (30) days from their receipt of the award. 6) All other relief requests are denied. 7) The \$150.00 filing fee previously deposited with the National Association of Securities Dealers Regulation, Inc. by the claimant, shall be retained by NASD Regulation, Inc. 8) Respondent, Olde Discount, is liable and shall pay claimant \$150.00 as reimbursement of the filing fee. 9) The Arbitrator recommends the expungement of all reference to this arbitration award 99-00634 from Respondent, Keith Campbell's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent, Keith Campbell, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

**OTHER FEES:** Pursuant to Rule 10333 of the Code, respondent, Olde Discount has paid to NASD Regulation, Inc. the \$300.00 Member Surcharge previously invoiced.

**OTHER ISSUES:** The Arbitrator denied respondents' request that claimants' claims be denied.

**ARBITRATOR'S REPORT: FINDINGS** - Respondents, Olde Discount Corporation ("Olde") and Keith Campbell ("Campbell"), do not deny Claimant's assertion that, after the account was opened, account co-owner Claimant, Daniel S. Hoshiyama, orally notified Campbell that all future trades were subject to his (Daniel Hoshiyama's) personal advance approval. In all known respects respondent, Campbell, ignored that instruction and thereafter solicited approval of trades from the account's other co-owner.

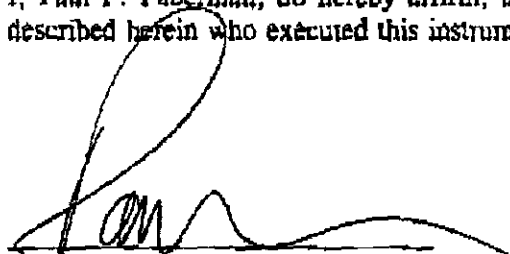
Respondents now assert reliance on the provisions of The Olde Investors Account Agreement ("Agreement") Paragraph 18 for authority. The notice to the broker by one co-owner of restrictions on the authority of the broker different from that recited in the Paragraph had the immediate effect of prospectively terminating the joint account as of the date of notice. Especially since each co-owner was jointly liable under the Agreement, it is reasonable that a co-owner have the authority to prospectively alter or terminate the relationship with the co-owner and the broker. Claimant did that by adequate notice to the broker. This is notwithstanding the last sentence of the paragraph, which provision is unconscionable. The broker ignored the notice when reasonable and prudent standards of conduct dictated that the broker take action to meet the expressed needs of the parties, perhaps by a transfer or re-entitlement of the account. Since Daniel Hoshiyama's notice effectively "froze" the joint account until the authority issues were resolved by a new account or otherwise, the May 27, 1998 purchase and sales transactions, occurring after the notice, are deemed to have been unauthorized. Accordingly, claimants are entitled to rescission of those transactions and to damages according to proof.

Liability is solely that of Olde, for lack of adequate supervision of its representative, Campbell, whose regulatory record should not reflect this matter.

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AFFIRMATION

I, Paul F. Faberman, 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.



Paul F. Faberman

January 7, 2000

State of award