

**Stipulated Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

**Oliver R. Price and Susan B. Price v. OLDE Discount Corporation and Patrick D. McGorisk**

Case Number: 99-01063

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**REPRESENTATION OF PARTIES**

Claimants, Oliver R. Price and Susan B. Price, hereinafter collectively referred to as "Claimants": Laurence S. Schultz, Esq., Driggers, Schultz & Herbst, Troy, Michigan.

Respondents, OLDE Discount Corporation ("OLDE") and Patrick D. McGorisk ("McGorisk"), hereinafter collectively referred to as "Respondents": Ronald P. Kane, Esq., Kane & Fischer, Chicago, Illinois.

**CASE INFORMATION**

Statement of Claim filed on or about: March 5, 1999

First Amendment to Statement of Claim filed on or about: August 31, 1999

Claimant, Oliver R. Price, signed the Uniform Submission Agreement: March 4, 1999

Claimant, Susan B. Price, signed the Uniform Submission Agreement: March 4, 1999

Statement of Answer filed by Respondents on or about: May 25, 1999

Respondent, OLDE Discount Corporation, signed the Uniform Submission Agreement: on or about May 25, 1999

**CASE SUMMARY**

Claimants alleged that Respondents induced them to purchase securities that were unsuitable and engaged in excessive trading of securities on margin. In addition, Claimants alleged that Respondents misrepresented that the stocks were safe and failed to disclose the risks of the trading. Claimant also asserted claims against OLDE for failure to supervise the activities of Respondent McGorisk in the handling of Claimants' account.

Respondents denied the material allegations of the Statement of Claim, alleging that Claimants were experienced investors whose investment included aggressive speculation. In addition, Respondents stated that the securities recommended were suitable for Claimants' investment objectives, sophistication and financial condition. Furthermore, Respondents alleged that Claimants' decision to purchase certain stock was based, at least in part, upon their own sources and not Respondents' representations. Respondents also asserted several affirmative defenses.

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### **RELIEF REQUESTED**

Claimants requested entry of an award for compensatory damages in an amount in excess of \$75,000.00, plus refund of commissions, plus exemplary/punitive damages, plus interest, costs, and attorneys' fees.

Respondents requested that the Panel enter an award in their favor and against Claimant, as well as attorneys' fees and costs incurred in connection with this proceeding. Respondent McGorisk requested that this panel issue an order specifically expunging this action from his CRD (stockbroker registration records.)

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondent McGorisk did not file with the NASD Dispute Resolution, Inc. Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, is bound by the determination of the Panel on all issues submitted.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies of that a hand written, signed Stipulated Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

By letter dated August 23, 2000, the Claimants advised that the matter was settled with Respondent OLDE. In addition, a Notice of Withdrawal and Dismissal of Claim was filed by Claimants in August, 2000, withdrawing and dismissing the claims against Respondent McGorisk.

### **AWARD**

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) Pursuant to the Notice of Withdrawal and Dismissal of Claim, the claims against Respondent Patrick McGorisk were withdrawn and it is intended that the dismissal shall act as a dismissal with prejudice relating to any and all claims asserted against Respondent Patrick McGorisk,
- 2.) The matter is settled (subject to any conditions of a settlement agreement) between the remaining parties;
- 3.) The parties shall each bear their own costs, subject to any settlement agreement, except for those specifically not included herein; and

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- 4.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Patrick D. McGorisk's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent McGorisk (CRD # 1495358") must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive, and
- 5.) That any relief not specifically enumerated, including punitive damages is hereby denied with prejudice.

### 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 = \$ 150.00

#### Adjournment Fees

Adjournments requested during these proceedings:

August 29-31, 2000, adjournment by Claimants = \$ 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 events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$1,000.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$1,500.00

#### Forum Fees and Assessments

The 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 session with a single arbitrator x \$300.00 = \$300.00

Pre-hearing conference: December 20, 1999 1 session

One (1) Pre-hearing session with Panel x \$500.00 = \$500.00

Pre-hearing conference: November 29, 1999 1 session

Total Forum Fees = \$800.00

The Panel has assessed \$400.00 of the forum fees to Oliver R. Price and Susan B. Price, jointly and severally.

The Panel has assessed \$400.00 of the forum fees to OLDE Discount Corporation.

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### Fee Summary

Claimants, Oliver R. Price and Susan B. Price, be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 150.00
Adjournment Fee	= \$ 500.00
<u>Forum Fees</u>	<u>= \$ 400.00</u>
Total Fees	= \$ 1,050.00
<u>Less payments</u>	<u>= \$ 1,050.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent, OLDE Discount Corporation, be and hereby is solely liable for:

Forum Fees	= \$ 400.00
<u>Member Fees</u>	<u>= \$ 3,100.00</u>
Total Fees	= \$ 3,500.00
<u>Less payments</u>	<u>= \$ 3,500.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

All balances are due to NASD Dispute Resolution, Inc.

### Concurring Arbitrators' Signatures

/s/ Thomas Kizer, Jr., Esq.  
Thomas Kizer, Jr., Esq.  
Public Arbitrator, Presiding Chair

06/25/01  
Signature Date

/s/ George H. Zinn, Jr., Esq.  
George H. Zinn, Jr., Esq.  
Public Arbitrator

06/26/01  
Signature Date

/s/ Gary C. Peters, Esq.  
Gary C. Peters, Esq.  
Industry Arbitrator

06/22/01  
Signature Date

06/27/01  
Date of Service (For NASD office use only)

07/26/01 THU 10:40 FAX  
06/22/2001 11:58 FAX 2486501629  
06/21/01 THU 15:00 FAX

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PAINWEBBER INC  
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Award Page 4 of 4

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Signature Date

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Signature Date

  
Gary C. Peters, Esq.  
Industry Arbitrator

6/22/01  
Signature Date

Date of Service (For NASD office use only)

07/26/01 THU 10:40 FAX  
JUN 26 2001 2:18 PM FR BUTZEL LONG  
08/21/01 THU 15:03 FAX

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313 225 7000 TO 913122383233  
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NASD Dispute Resolution, Inc.  
Arbitration # 99-D1083  
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Public Arbitrator, Presiding Chair

Signature Date

  
George H. Zinn, Jr., Esq.  
Public Arbitrator

  
Signature Date

Gary C. Peters, Esq.  
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.  
Arbitration # 99-01093  
Award Page 4 of 4**Fee Summary**

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