

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Kathleen Elizabeth Downey v. Olde Discount Corporation and Steven R. Ross

Case Number: 99-1111

Hearing Site: Detroit, Michigan

REPRESENTATION OF PARTIES

Claimant, Kathleen Elizabeth Downey ("Downey"), hereinafter referred to as "Claimant":
Laurence S. Schultz, Esq., Driggers, Schultz & Herbst, Troy, Michigan.

Respondents, Olde Discount Corporation ("Olde"), and Steven Ross ("Ross") hereinafter
referred to as "Respondent": John A. Hubbard, Esq., Beals Hubbard, Farmington Hills,
Michigan.

CASE INFORMATION

Statement of Claim filed on or about: March 8, 1999

First Amendment to statement of Claim filed on or about: August 27, 2000

Claimant signed the Uniform Submission Agreement: March 8, 1999

Statement of Answer filed by Respondent, Olde, on or about: July 8, 2000

Respondents' Answer to First Amendment to Statement of Claim filed on or about: June
5, 2000

Respondent, Olde, signed the Uniform Submission Agreement: May 27, 1999

Respondents' Motion for More Definite Statement of Claim filed on or about: July 9, 1999

Respondent Olde's Objection to Amendment to Statement of Claim: September 30, 1999

Claimant's Reply to Olde's Objection to Amendment to Statement of Claim filed on or
about: October 14, 1999

Respondents' Response in Opposition to Claimant's Motion to Amend Statement of Claim
filed on or about: September 30, 1999

Respondent Olde's Motion to Strike filed on or about: July 9, 1999

Claimant's Opposition to Respondent's Motion to Strike filed on or about: August 27, 1999

Respondent's Reply in Support of Motion to Strike filed on or about: September 30, 1999

Claimant's Response to Respondent's Reply in Support of Motion to Strike filed on or
about: November 1, 2000

CASE SUMMARY

Claimant asserted causes of action, including the following: churning, breach of fiduciary
duty, misrepresentation and deceptive devices, breach of contract, and violation of NASD
rules. The causes of action relate to alleged unsuitable investment recommendations and
misrepresentations regarding risks of taking large positions combined with margin trading
made to Claimant.

Unless specifically admitted in Olde's Answer, and Respondents' Answer to First Amendment to Statement of Claim, the Respondents denied the allegations made in the Statement of Claim and First Amendment to Statement of Claim and asserted affirmative defenses, including the following: Claimant has failed to state a claim upon which relief may be granted, Claimant's claims are barred by the statute of frauds; Claimant's claims are barred by laches, waiver, estoppel, and ratification; Claimant's claims are barred by reason of Claimant's negligence, comparative negligence and/or contributory negligence; Claimant assumed the risk of her investment transactions and the investment losses incurred; economic, industry, corporate and market conditions, and not Respondent was responsible for Claimant's losses if any.

RELIEF REQUESTED

Claimant requested damages, jointly and severally, in excess of \$25,000.00, plus lost opportunity, plus refund of commissions, plus exemplary/punitive damages (including damages for emotional distress and severe mental anguish) plus interest, costs, attorneys' fees, and such other relief as may be awarded.

Respondents requested an award of "No Cause of Action," plus dismissal with prejudice, and attorney's fees

OTHER ISSUES CONSIDERED AND DECIDED

Respondent, Steven R. Ross, did not file with the NASD Regulation, 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, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

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.

At hearing, the Panel granted in part and denied in part Respondent Olde's Motion to Strike.

Respondents orally moved for dismissal at hearing, which Motion was denied by the Panel.

AWARD

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

- 1.) Respondent, Olde Discount Corporation, is solely liable for and shall pay to Claimant, Kathleen Elizabeth Downey, the sum of \$15,000.00 in compensatory damages;

- 2.) Respondent, Steven R. Ross, is solely liable for and shall pay to Claimant, Kathleen Elizabeth Downey, the sum of \$5,000.00 in compensatory damages;
- 3.) Respondent, Olde Discount Corporation, is solely liable for and shall pay to Claimant, Kathleen Elizabeth Downey, the sum of \$900.00 in interest (beginning to accrue on August 17, 1999 through August 16, 2000);
- 4.) Respondent, Steven R. Ross, is solely liable for and shall pay to Claimant, Kathleen Elizabeth Downey, the sum of \$300.00 in interest (beginning to accrue on August 17, 1999 through August 16, 2000);
- 5.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 6.) That any relief not specifically enumerated, including exemplary and punitive damages, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 120.00
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Member Fees

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

Member surcharge	= \$ 600.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,000.00

Adjournment Fees

Adjournments requested during these proceedings: N/A

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 Panel x \$300.00	= \$ 300.00
Pre-hearing conference: November 9, 1999 1 session	

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NASD REGULATION

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Four (4) Hearing sessions x \$400.00 = \$1,600.00

Hearing Dates: August 15, 2000 2 sessions

August 16, 2000 2 sessions

Total Forum Fees = \$1,900.00

The Panel has assessed \$1,900.00 of the forum fees to Olde Discount Corporation.

Fee Summary

Claimant, Kathleen Elizabeth Downey, be and hereby is solely liable for:

Initial Filing Fee = \$ 120.00

Forum Fees = \$ 0.00

Total Fees = \$ 120.00

Less payments = \$ 520.00

Balance to be refunded by NASD Regulation, Inc. = \$ (400.00)

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

Member Fees = \$ 2,200.00

Forum Fees = \$ 1,900.00

Total Fees = \$ 4,100.00

Less payments = \$ 1,200.00

Balance Due NASD Regulation, Inc. = \$ 2,900.00

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

Ruben Acosta, Esq.
 Public Arbitrator, Presiding Chair

Signature Date

David L. Rosenthal
 Public Arbitrator

Signature Date

Sharon L. Paul
 Sharon L. Paul
 Industry Arbitrator

8/31/00
 Signature Date

Date of Service (For NASD office use only)

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Public Arbitrator, Presiding Chair



David L. Rosenthal
Public Arbitrator

Signature Date

AUGUST 30, 2000
Signature Date

Sharon L. Paul
Industry Arbitrator

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