

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

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In the Matter of the Arbitration Between

Name of Claimant

Thomas J. Koch

Case No. 99-03203

Names of Respondents

Olde Discount Corporation  
George Sadowski

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**REPRESENTATION OF PARTIES**

For Thomas J. Koch ("Koch"), hereinafter referred to as "Claimant": Laurie Bolch, Esq., Boca Raton, Florida.

For Olde Discount Corporation ("Olde") and George Sadowski ("Sadowski"), hereinafter collectively referred to as "Respondents": David S. Kempers, Corporate Counsel, Olde Discount Corporation and Donald P. Wray, Jr., Assistant General Counsel, H&R Block Financial Advisors, Inc.

**CASE INFORMATION**

Statement of Claim filed on or about: July 13, 1999.

Claimant signed the Uniform Submission Agreement.

Statement of Answer filed by Respondents on or about: January 11, 2000.

Respondents Olde and Sadowski did not file executed Uniform Submission Agreements.

**CASE SUMMARY**

Claimant asserted the following: Claimant instructed Respondents to exercise stock options to purchase shares of Motorola, Inc. Respondents failed to exercise and sell the stock options. Respondents were negligent and breached an oral agreement with Claimant by failing to exercise the stock options.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Respondents satisfied and discharged their limited transactional duties that were owed to Claimant; Claimant assumed the risk of his investment transactions and the losses incurred; economic, industry, corporate and market conditions, and not Respondents, were responsible for any losses sustained by Claimant; and,

Claimant has failed to state a claim upon which relief may be granted.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in excess of \$15,000.00, plus interest, costs, attorneys' fees, and all other allowable damages under Florida law.

Respondents requested that all claims be dismissed in their entirety, that Claimant be assessed Respondents' costs and expenses, and that all references to this matter be expunged from the Central Registration Depository ("CRD") record of Respondent Sadowski.

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

Respondents did not file with NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Arbitrator 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.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims are denied in their entirety.

The Arbitrator recommends the expungment of all references to the above-captioned arbitration proceeding from Respondent Sadowski's CRD record with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Sadowski must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungment directive.

Each party shall bear their respective costs, including attorneys' fees.

All other requests for relief not specifically addressed herein are 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

= \$125.00

### **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 = \$ 400.00

### **Adjournment Fees**

Adjournments requested during these proceedings:

September 21 through September 22, 2000, adjournment requested by Claimant. The adjournment fee of \$450.00 was waived by the arbitrator.

November 9 through November 10, 2000, adjournment requested by Claimant. The adjournment fee of \$900.00 was waived by the arbitrator.

### **Forum Fees and Assessments**

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

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$ 450.00

Pre-hearing conference: April 27, 2000 1 session

Two (2) Hearing sessions x \$450.00 = \$ 900.00

Hearing Date: January 10, 2001 2 sessions

Total Forum Fees = \$1,350.00

The Arbitrator has assessed the total forum fees of \$1,350.00 to Claimant.

### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

**Fee Summary**

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 125.00
Forum Fees	= <u>\$1,350.00</u>
Total Fees	= \$1,475.00
Less payments	= <u>\$ 575.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 900.00

Respondent Olde be and hereby is solely liable for:

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

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.

**Arbitrator's Signature**

/s/

Richard E. Conner, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

February 20, 2001

Date of Service (For NASD-DR office use only)

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### Fee Summary

Claimant be and hereby is solely liable for:


Initial Filing Fee	= \$ 125.00
Forum Fees	= \$1,350.00
Total Fees	= \$1,475.00
Less payments	= \$ 575.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 900.00

Respondent Older be and hereby is solely liable for:

Member Fees	= \$ 400.00
Total Fees	= \$ 400.00
Less payments	= \$ 400.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.

### Arbitrator's Signature

  
 Richard E. Conner, Esq.  
 Public Arbitrator, Presiding Chair

February 16, 2001  
 Signature Date

Date of Service (For NASD-DR office use only)