

PACIFIC EXCHANGE, INC.  
301 Pine Street  
San Francisco, California 94104

In The Matter Of The Arbitration Between:

MARCO AMBROSELLI and  
TANYA JANKOVIC.

Claimants

PCX CASE #: 99-S030

DECISION

OLDE DISCOUNT CORPORATION  
and TOM FEZLER.

Respondents

The undersigned Arbitrators, having read and considered the Claim submitted by Marco Ambroselli ("Claimant") on June 30, 1999, and the Answer of OLDE Discount and Tom Fezler ("Respondents") dated September 10, 1999, hereby render the following Decision pursuant to Rule 12 of the Rules of the Board of Governors of the Pacific Exchange. Tanya Jankovic previously settled this matter and is not a party to this Decision.

REPRESENTATION OF PARTIES

Of Claimant: Jeffrey M. Jones, Esq.  
*Law Office of Jeffrey M. Jones, PC*

Of Respondents: Patrick Baldwin, Esq.  
*Law Offices of Patrick Baldwin*

SUMMARY OF FACTS

Claimant maintained a brokerage account at OLDE Discount Corporation. The registered representative was Tom Fezler. Claimant alleges that Respondents encouraged excessive trading in the account, for their own benefit, and controlled the account, again for their own benefit. Respondents deny all such allegations.

ISSUES PRESENTED

1. Did Respondents control the account?
2. Did Respondents encourage excessive trading?

### **RELIEF REQUESTED**

Claimant seeks \$561,428.14 in compensatory damages and an unspecified amount of punitive damages.

### **FINDINGS AND DECISION**

#### **A. FINDINGS OF FACT:**

Claimant did not meet his burden of proving that Respondents controlled the account.

Claimant did not meet his burden of proving that Respondents encouraged excessive trading.

#### **B. DECISION**

After considering the argument and evidence of both the Claimant and Respondents in this matter, the undersigned Arbitrators make the final determination in decision of the issues presented, as set forth below:

Claimant did not meet his burden of proving lack of control or excessive trading.

#### **C. AWARD**

1. Monetary Damages are DENIED.
2. Punitive Damages are DENIED.
3. Costs are DENIED.
4. Attorneys' Fees are DENIED.

#### **D. OTHER DETERMINATIONS**

1. Respondent shall not reimburse Claimant's non-refundable filing fee.
2. Respondent shall not reimburse Claimant's hearing session deposit.
3. Parties shall bear their own costs of arbitration.

E. HEARING FEES:

Forum fees are to be split evenly between the parties. Claimant is assessed forum fees in the amount of \$4,500.00, payable to the Pacific Exchange. Respondents are assessed forum fees in the amount of \$4,500.00, payable to the Pacific Exchange.

DATED: \_\_\_\_\_, 2001

\_\_\_\_\_  
Robert M. Smith, Esq., Chair

DATED: 5/3/01, 2001

  
\_\_\_\_\_  
Alfred Knoll, Esq.

DATED: \_\_\_\_\_, 2001

\_\_\_\_\_  
Frank Weaver

E. HEARING FEES:

Forum fees are to be split evenly between the parties. Claimant is assessed forum fees in the amount of \$4,500.00, payable to the Pacific Exchange. Respondents are assessed forum fees in the amount of \$4,500.00, payable to the Pacific Exchange.

DATED: 5/4, 2001

Robert M. Smith, Esq., Chair

DATED: \_\_\_\_\_, 2001

Alfred Knoil, Esq.

DATED: 5/4, 2001

Frank Weaver

E HEARING FEES.

Forum fees are to be split evenly between the parties. Claimant is assessed forum fees in the amount of \$4,500.00, payable to the Pacific Exchange Respondents are assessed forum fees in the amount of \$4,500.00, payable to the Pacific Exchange.

DATED: May 3, 2001

Robert M. Smith, Esq.  
Robert M. Smith, Esq., Chair

DATED: \_\_\_\_\_, 2001

Alfred Knoll, Esq.  
Alfred Knoll, Esq.

DATED: \_\_\_\_\_, 2001

Frank Weaver  
Frank Weaver