

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration Between

**Name of Claimants**

Ronald Chabal, William Allison,  
Charles Anderson & Nancy Anderson,  
Patrick Anderson, John Chadwick,  
Hector Correa, Jeffrey Daise & Anita  
Daise, Thomas Driscoll, Harold Granzow,  
David Hixenbaugh & Susan Hixenbaugh,  
Susan Holbrook, Gerald Hudac, Ray Jones,  
Georgette Murray, Karen Kasimirsky,  
Chester Kasimirsky, Norma J. Kasimirsky,  
Howard Kelly & Kathleen Kelly, Phyllis  
Kush, Daniel Lang, Spencer Margolin

92-01037	92-01096
92-01224	92-01109
92-01330	92-01095
92-01510	92-01287
92-01329	92-01332
92-01222	92-01327
92-01291	92-01333
92-01335	92-01104
92-01295	92-01067

**Name of Respondents**

A.T. Brod & Co., Inc.  
Elisa A. Adamson  
Styles C. Adamson, Jr.

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**REPRESENTATION**

For all Claimants: David Liebrader, Esq., Brian Lowe and Alan Weiss of  
Investors Arbitration Services, Inc.

For Respondent, A.T. Brod & Co., Inc. ("Brod"): Lisa J. Ferneau, Esq. of  
Kirkpatrick and Lockhart.

For Respondents, Elise A. Adamson and Style C. Adamson, Jr. ("Adamsons"): Kenneth E. Keechl, Esq. of Brenkley, McNearney, Morgan & Solomon until January 12, 1994 when Mr. Keechl withdrew. The Adamsons are now pro se and represented themselves at the hearing.

### CASE INFORMATION

**Claimants:**

Original Numbers	Claimant	Statement of Submission Claim Filed Signed	
92-01037	Chabal, Ronald	03/24/92	03/11/92
92-01096	Allison, William	03/24/92	03/09/92
92-01224	Anderson, Charles	04/08/92	03/24/92
	& Anderson, Nancy	04/08/92	03/24/92
92-01109	Anderson, Patrick	03/30/92	03/16/92
92-01330	Chadwick, John	04/15/92	04/02/92
92-01095	Correa, Hector	03/27/92	03/13/92
92-01510	Daise, Jeffrey	05/04/92	04/18/92
	& Daise, Anita	05/04/92	04/18/92
92-01287	Driscoll, Thomas	04/14/92	03/14/92
92-01222	Granzow, Harold	04/08/92	03/23/92
92-01327	Hixenbaugh, David	04/15/92	05/15/92
	& Hixenbaugh, Susan	04/15/92	05/15/92
92-01291	Holbrook, Susan	04/14/92	04/08/92
92-01333	Hudac, Gerald	04/15/92	04/15/92
92-01335	Jones, Ray	04/15/92	03/26/92
92-01104	Murray, Georgette	03/30/92	03/11/92
	Kalsimirsky, Karen	03/30/92	03/14/92
	Kasimirsky, Chester	03/30/92	03/11/92
	Kasimirsky, Norma J.	03/30/92	03/11/92
92-01295	Kelly, Howard	04/14/92	03/30/92
	& Kelly, Kathleen	04/14/92	03/30/92
92-01067	Kush, Phyllis	03/25/92	03/10/92
92-01329	Lang, Daniel	04/15/92	05/22/92
92-01332	Margolin, Spencer	04/15/92	03/18/92

Statement of Answer filed by Respondent, Brod: June 9, 1992, Submission Agreement executed by Albert T. Brod on behalf of Brod on February 7, 1994.

Statements of Answer filed by Respondents, Styles and Elisa Adamson: July 29, 1992. Submission agreements executed on February 9, 1994.

### **HEARING INFORMATION**

On July 27, and September 14, 1993, two (2) Pre-Hearing Conferences via telephone conference call with the Chairman were conducted.

On January 17, 18, 19 and 20, 1994, in Fort Lauderdale, Florida, hearings lasting two (2) sessions each, for a total of eight (8) sessions, were conducted.

### **CASE SUMMARY**

Claimants alleged that they all purchased stock in Video Superstores of America ("VDSA"); that they purchased VDSA based upon representations made through Brod; that for the most part, Claimants relied on oral and written representations made to them by agents of Brod, that were materially misleading; that employees of Brod, the Adamsons, controlled and dominated the market for VDSA stock; that not all Claimants purchased their shares at Brod though all were supplied with information from Brod regarding the prospects for the company; that all Claimants stipulate to the dates of purchase reflected in Exhibit "J"; that Stephen Kush became associated with Brod on September 26, 1988 and prior to that time all purchases by Claimants were not made through Brod; and that the amounts in Exhibit "J" shall be deemed the amounts of loss.

Respondent, Brod, denied all allegations of wrongdoing and alleged that several of the Claimants never purchased a single share of common stock of VDSA through Brod; that those Claimants who did purchase shares of VDSA through Brod did not receive misleading information about VDSA from Brod; and that Brod's supervision of former registered representative, Stephen G. Kush, was reasonable and appropriate.

All Respondents stated the affirmative defenses of: lack of jurisdiction; failure to state a claim; statute of limitations; assumption of risk; waiver; laches; and, estoppel.

Respondents, Adamsons, denied all allegations of wrongdoing and alleged that Claimants did not receive misleading information about VDSA from Adamsons; that Respondents while in a supervisory capacity at Brod performed appropriate and proper supervision, and at no time defrauded Claimants.

### **RELIEF REQUESTED**

Claimant(s) requested damages in the following amounts:

Original Number	Claimant	Relief Requested
92-01037	Chabal, Ronald	\$ 12,577.57
92-01096	Allison, Ronald	\$ 5,050.00
92-01224	Anderson, Charles & Nancy	\$ 3,805.61
92-01109	Anderson Patrick	\$ 5,010.00
92-01330	Chadwick, John	\$ 53,610.00
92-01095	Correa, Hector	\$ 15,614.38
92-01510	Daise, Jeffrey & Anita	\$ 4,205.27
92-01287	Driscoll, Thomas	\$ 1,430.00
92-01222	Granzow, Harold	\$ 28,812.50
92-01327	Hixenbaugh, David & Susan	\$ 7,117.50
92-01291	Holbrook, Susan	\$ 9,800.00
92-01333	Hudac, Gerald	\$ 3,315.00
92-01335	Jones, Gerald	\$ 22,875.07
92-01104	Murray, Georgette, et.al.	\$105,321.22
92-01295	Kelly, Howard & Kathleen	\$ 18,981.25
92-01067	Kush, Phyllis	\$ 87,703.76
92-01329	Lang, Daniel	\$ 43,980.00
92-01332	Margolin, Spencer	\$ 22,652.47

Total Damages Requested \$451,861.60

Claimants further requested costs, attorney's fees, and treble damages.

Respondents requested dismissal of claims, attorney's fees, and costs.

### **OTHER ISSUES CONSIDERED & DECIDED**

1. During the hearing, the Panel entertained Claimants' Motion for Telephone Testimony and decided that certain witnesses, including some Claimants' were permitted to appear via telephone, over Respondents' objections.
2. When it was discovered during the hearing on January 17, 1994 that major

portions of the recorded testimony from that day were blank, the parties agreed to proceed without a record for the missing portions.

3. 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. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

### **AWARD**

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

1. Respondents are found not liable and, therefore, all claims against them are hereby dismissed.
2. Claimants' requests for attorney's fees, costs, and punitive damages are denied.
3. Respondents' requests for attorney's fees and costs are denied.

### **OTHER COSTS**

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding excepting Forum Fees, below.

### **FORUM FEES**

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$6,600.00 (2 pre-hearing conferences x \$300.00, plus 8 sessions x \$750.00).
2. Respondents, Brod and Adamsons, are hereby assessed \$6,600.00, jointly and severally, \$925.00 of which shall be paid to the National Association of Securities Dealers, Inc., and \$5,675.00 of which shall be paid directly to the Claimants, in reimbursement for session deposits previously paid, in the amounts as set forth below:

Original Number	Claimant	Amount for Respondents to Reimburse
92-01037	Chabal, Ronald	\$ 400.00
92-01096	Allison, William	\$ 200.00
92-01224	Anderson, Charles & Nancy	\$ 100.00
92-01109	Anderson, Patrick	\$ 200.00
92-01330	Chadwick, John	\$ 500.00
92-01095	Correa, Hector	\$ 400.00
92-01510	Daise, Jeffrey & Anita	\$ 100.00
92-01287	Driscoll, Thomas	\$ 25.00
92-01222	Granzow, Harold	\$ 400.00
92-01327	Hixenbaugh, David & Susan	\$ 200.00
92-01291	Holbrook, Susan	\$ 200.00
92-01333	Hudac, Gerald	\$ 100.00
92-01335	Jones, Ray	\$ 400.00
92-01104	Murray, Georgette, et.al.	\$ 750.00
92-01295	Kelly, Howard & Kathleen	\$ 400.00
92-01067	Kush, Phyllis	\$ 500.00
92-01329	Lang, Daniel	\$ 400.00
92-01332	Margolin, Spencer	\$ 400.00
Total Session Deposits Paid		<u>\$5,675.00</u>

3. The NASD shall retain the session deposits totalling \$5,675.00 paid by the Claimants.

4. The NASD shall retain the non-refundable filing fees, totalling \$1,715.00 paid by the Claimants.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

Name

Public/Industry

151  
Myron Dunay, Esq.

Public

151  
Andrew Bartfay

Industry

151  
Michael Lau

Public

Date of Decision: 2/4/94