

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Brent Dowdle

96-01716

Name of Respondent

Investors Associates Incorporated

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 19, 1996, Claimant Brent Dowdle ("Claimant"), who appeared Pro Se, alleged that Respondent Investors Associates Incorporated ("IAI") was negligent in the supervision of their registered representative Christopher Frye ("Frye"). Claimant further alleged that he transferred his account to IAI from Securities America ("SA") when Frye joined the respondent's firm on December 21, 1994. Claimant also alleged that after receiving his January 1995, account statement, he noticed that his account value was down significantly. Claimant asserted that he assumed that his account was down as a result from the Federal taxes withheld in escrow per the account statement. Claimant further asserted that when he requested IAI to credit his account for the withholding, Mr. Frye informed him that the tax withholdings were already credited to his account. Claimant also asserted that his account had gone down substantially, wherein Mr. Frye agreed but stated that he had just bought a small company, Quadrax ("QDRX") and that it would be a big winner. Claimant contended that after receiving his February statement he began to feel uneasy about his investments, since the value of his account had deteriorated. Claimant further contended that he got very upset when he discovered that Mr. Frye took a short position in Cott Corporation ("Cott"), a company that he had recently sold a long position in. Claimant also contended that Mr. Frye stated that the short trade in Cott generated a profit of \$3,000.00. Claimant alleged that in fact the transaction generated a profit of \$300.00. for him and a \$2,500 in commission for Mr. Frye. Claimant further alleged that he told Mr. Frye to return all of the commission associated with his account because he had not handled his account with proper care and diligence, and Mr. Frye agreed to return all commissions from the Cott trade. Claimant also alleged that few days later he called Mr. Frye to see if he had returned the money to his account, but was informed by Mr. Jack Cooper that Mr. Frye had taken a leave of absence and was somewhere in Florida. Claimant asserted that Mr. Cooper had informed him that no recent deposits were made into his account. Claimant further asserted that Mr. Frye, as an agent of IAI, made inappropriate trades involving excessive risks, generated trades for the sole purpose of creating himself a commission and made unauthorized trades.

Respondent Investors Associates, Incorporated ("Respondent") through its representative, M. David Sayid, Esq., of Sayid and Associates located in Hackensack, New Jersey, maintained that when Claimant opened his account at Securities America, he claimed to be a knowledgeable investor, who knew the ins and outs of the securities industry. Respondent further maintained that if the claimant's account was constantly losing money or becoming problematic, he could have stopped trading, froze or even closed the account. Respondent also maintained that all trades made were authorized and disclosed to the claimant prior to being transacted. Respondent contended that some of the trades were unsolicited transaction and that the commissions earned were disclosed, not ambiguous at all, and in full disclosure with industry rules and regulations. Respondent further contended that claimant knew exactly what he was buying and selling. Respondent also contended that the claimant never mentioned throughout the statement of claim that an unauthorized trade was transacted. Respondent maintained that claimant never complained to the NASD or IAI Compliance, Customer or Operation Departments about any of these securities. Respondent also maintained that claimants failure to complain until six months after the occurrence, amounted to a ratification of the trades. Respondent contended that it is a matter of black letter law that brokers are not guarantors of profits.

RELIEF REQUESTED

Claimant Brent Dowdle, requested approximately 42.79% of his losses or \$10,000.00, plus arbitration costs.

Respondent Investors Associates, Incorporated, requested that the claims of the Claimant be dismissed in their entirety and should be award costs, fees, expenses and reasonable attorney's fees in an amount not less the \$5,000.00.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, James E. Giblin, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Brent Dowdle on April 17, 1996, and by the Respondent Investors Associates, Incorporated on May 16, 1996.


And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimant Brent Dowdle against Respondent Investors Associates, Incorporated are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent Investors Associates, Incorporated is liable, and shall pay \$150.00 to the Claimant Brent Dowdle.
4. All other relief requests are denied.

Page Three
Award 96-01716

AFFIRMATION

I, **JAMES E. GIBLIN**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.


Signature of Arbitrator

DATE OF DECISION: October 15, 1996