

**NASD REGULATION, INC.  
OFFICE OF DISPUTE RESOLUTION  
ARBITRATION AWARD**

**NASD REGULATION, INC. - OFFICE OF DISPUTE RESOLUTION**

In the matter of the Arbitration Between

Name of Claimant

M2 Software, Inc.

NASD Regulation, Inc.  
Office of Dispute Resolution  
Arbitration No. 96-03496

Name of Respondent

Herzog, Heine, Geduld, Inc.

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**REPRESENTATION**

For Claimant:

David Escamilla  
M2 Software, Inc.  
Los Angeles, California

For Respondent:

Mark T. Dooks, Esq.  
Bird, Marella, Boxer, Wolpert & Matz  
Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed:	August 13, 1996
Claimant's Submission Agreement signed:	August 9, 1996
Statement of Answer filed by Respondent:	October 9, 1996
Respondent's Submission Agreement signed:	December 27, 1996

### **HEARING INFORMATION**

Pre-Hearing Conference Date / Session: December 18, 1996 (1 session)  
Hearing Date / Sessions: February 10, 1997 (2 sessions)  
Hearing Location: Los Angeles, California

### **CASE SUMMARY**

Claimant alleged that Respondent engaged in the unauthorized execution of a limit sell order which had been cancelled by Claimant over three and one-half hours earlier. Claimant further alleged that Respondent committed negligence and/or fraud in the unauthorized purchase of securities in Claimant's margin account.

Respondent denied Claimant's claims in their entirety.

### **RELIEF REQUESTED**

Claimant sought compensatory damages in the amount of \$8,550.00, punitive damages in the amount of \$75,000.00, interest at 1.5% per month from the date of the disputed trade, costs in the amount of \$5,000.00 and reimbursement of the filing fee and hearing session deposit associated with this matter.

Respondent sought dismissal of Claimant's claims in their entirety, and costs associated with defending this action.

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

The parties have agreed that the Award in this matter may be executed in either 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 original remains on file with the NASD Regulation, Inc., Office of Dispute Resolution.

### **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. All of the Claimant's claims are denied in their entirety.
2. Each party shall bear its own cost, including attorneys' fees.

### **FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed against Respondent Herzog, Heine, Geduld, Inc.:

One (1) Pre-Hearing Conference @ \$300.00/Session	= \$300.00
Two (2) Hearing Sessions @ \$500.00/Session	= \$1,000.00
<b>Total Forum Fees Assessed</b>	<b>= \$1,300.00</b>

**Respondent Herzog, Heine, Geduld, Inc.'s Balance Due = \$1,300.00**

**Claimant's Hearing Session Deposit of \$500.00 shall be refunded by the NASD.**

**Fees are payable to the NASD Regulation, Inc.**

## ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Sandra L. Malek, Esq.	Public Arbitrator
Alan D. Shifman, Esq.	Industry Arbitrator
David J. Anderson	Public Arbitrator

### Concurring Arbitrators' Signatures

Sandra L. Malek  
Sandra L. Malek, Esq.

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Alan D. Shifman, Esq.

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David J. Anderson

Date of Decision: \_\_\_\_\_

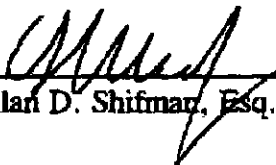
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Alan D. Shifman, Esq.	Industry Arbitrator
David J. Anderson	Public Arbitrator

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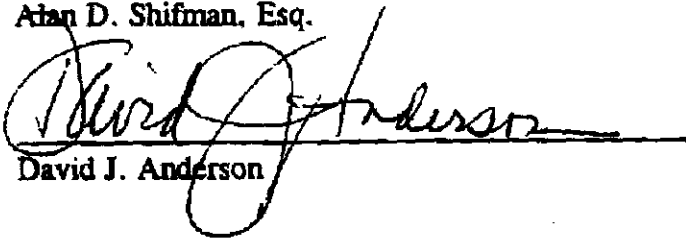
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David J. Anderson	Public Arbitrator

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