

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimant

Daniel I. Hott

96-03823

Name of Respondents

Investors Associates, Inc.  
David Epstein

---

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 28, 1996, claimant Daniel I. Hott ("claimant"), who appeared Pro Se, alleged that respondents Investors Associates, Inc. ("IA") and David Epstein ("Epstein") improperly handled his account. Claimant further alleged that on April 24, 1996, Epstein made an unauthorized purchase of 2000 shares of Bev Tyme, Inc. preferred stock ("BT") in his account but that he had authorized the purchase of 250 shares of Iomega on margin at approximately \$46.00 per share. Claimant also alleged that he called Epstein on April 27 and left a message that there had been a mistake. Claimant contended that on April 29 he planned on purchase BT as soon as Iomega split and not to sell Iomega until after the split. Claimant further contended that Iomega was sold prior to the split without authorization. Claimant acknowledged that he then paid for the BT stock and authorized and paid for another security recommended by respondent. Claimant also contended that he attempted to resolve the matter with the respondents and their attorney without success. Claimant asserted that he has suffered a loss on the purchase and sale of the BT and that the respondents should be held liable.

Respondents Investors Associates, Inc. and David Epstein through their representative and counsel, David Sayid, Esq., of David Sayid & Associates located in Hackensack, New Jersey, maintained that claimant is an individual who is attempting to recoup any losses he may have had even though such losses were created by his own volition. Respondents further maintained that claimant informed Epstein that he was an experienced investor when he opened his account. Respondents also maintained that claimant agreed to follow Epstein's advice to purchase Iomega, 250 shares on March 22, 1996, and an additional 250 on April 29, 1996. Respondents contended that on April 29, claimant also agreed to purchase 2000 shares of BT. Respondents further contended that following April 29, claimant indicated that he would not be forwarding additional monies to cover the trades so it was decided that the BT purchase would be canceled

and that Iomega would be sold and the proceeds would be used to purchase shares of BT. Respondents also contended that much of what the claimant attributes as his own ideas regarding the trades were actually initiated by Epstein. Respondents asserted that on May 3, 1996, with claimant's permission, the 2,000 share BT purchase was canceled, the Iomega shares were sold, and 1500 shares of BT were eventually purchased at the end of the day, and paid for by claimant. Respondents further asserted that as a result of the above, claimant affirmed the transaction and they should not be held liable.

#### **RELIEF REQUESTED**

Claimant Daniel I. Hott requested \$8,895.50 in actual damages.

Respondents Investors Associates, Inc. and David Epstein requested that the claims be dismissed plus costs, fees, expenses, attorney's fees in the amount of not less than \$5,000.00 and other such relief as the arbitrator deems appropriate.

#### **AWARD**

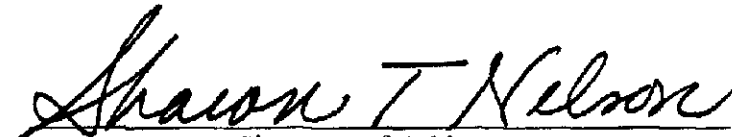
Pursuant to Section 10302 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Sharon T. Nelson, Esq., was selected to review the matter in controversy between the parties set forth in submissions to arbitration signed by the claimant on August 27, 1996, and by respondent David Epstein on November 19, 1996, and not by respondent Investors Associates, Inc. as is required by Sections 10301 and 10302 of the NASD Code of Arbitration Procedure.

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 Daniel I. Hott against respondents Investors Associates, Inc. and David Epstein are denied in their entirety.
2. The parties shall bear their respective costs and attorney's fees.
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. Respondents Investors Associates, Inc. and David Epstein are liable and shall pay to the claimant Daniel I. Hott \$150.00 as reimbursement of the filing fee.
4. All other relief requests are denied.

AFFIRMATION

I, Sharon T. Nelson, Esq., 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: December 23, 1996