

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Kirk Yorgey

96-03946

Name of Respondents

Investors Associates, Inc  
Roberto Loza

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CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on September 4, 1996 claimant Kirk Yorgey ("claimant"), who appeared Pro Se, alleged that respondents Investors Associates, Inc. ("IAI") and Roberto Loza ("Loza") on May 9, 1996 purchased 2000 shares of Camelot Corp. ("CAML") without his authorization. Claimant further alleged that the day he received the confirmation, he called IAI and spoke with Loza, who explained that the transaction was a mistake and that it would be cleared up as soon as possible. Claimant also alleged that a few weeks later, he received notice from IAI that he still had a debit on his account and he called IAI and was again told that the matter would be taken care of. Claimant asserted that on June 14, 1996 CAML was sold from his account as were 850 shares of GMD Resources ("GMD") to cover the value loss of CAML. Claimant further asserted that rather than have the firm cover the loss due to the unauthorized trade, they kept it as a charge against his account and made an authorized stock sale to cover it.

Claimant also asserted that from early July to mid August, he called Loza everyday to check on the status of his account. Claimant contended that Loza lead him to believe that IAI would cover his losses by purchasing GMD stock from the Vancouver Exchange as soon as possible. Claimant further contended that on August 14, 1996 he demanded the purchase of GMD be made to cover his losses, due to the fact that the value of GMD was increasing and he felt it would not be possible to get the 1000 shares he hoped for. Claimant also contended that the next day he was faxed an Authorization to Purchase and signed it to have the shares credited to his account. Claimant alleged that he called to confirm the purchase and found out that no such purchase had been credited to his account. (The purchase of 1000 GMD was confirmed on August 15, 1996). Claimant further alleged that he agreed that the sale of the 1000 shares of GMD which was being held as debit in his account should be made as soon as possible. Claimant also alleged that his losses associated with the sale of GMD have not been reimbursed and that respondents are liable for the loss of capital.

Respondents IAI and Loza (collectively referred as "respondents") through their representative and counsel, M. David Sayid of the law firm, Sayid and Associates, located in Hackensack, New Jersey, maintained that the transaction was unequivocally authorized by claimant. Respondents further maintained that on May 10, 1996 Loza spoke with claimant and confirmed the purchase order of 2000 shares of CAML. Respondents also maintained that on May 21, 1996 Loza spoke with claimant who began to explain that he did not authorize the purchase of CAML. Respondents contended that after a lengthy discussion with Loza, claimant recalled authorizing the purchase of CAML, but simply wished he had not.

Respondents further contended that on June 6, 1996, claimant called in and authorized a sell order for 1,000 shares of FSAWF. Respondents also contended that Loza reminded claimant that he had a debit outstanding for over 1 whole month. Respondents maintained that claimant stated that he would send sufficient monies to satisfy the debit. Respondents also maintained that on June 14, 1996 claimant called in and Loza told him that the money was due and IAI could not extend it. Respondents contended that Loza told him the amount of stock he would have to sell in his account and claimant agreed.

Respondents further contended that on August 14, 1996, claimant called in and ordered a buy order of 1,000 shares of GMD. Respondents also contended that he faxed the unsolicited letter to claimant, but did not receive the letter back until the market was closed. Respondents maintained that Loza told claimant that he did not receive the letter in time to enter the transaction and claimant said it was fine. Respondents further maintained that on August 15, 1996, claimant called Loza and ordered 1000 shares of GMD. Respondents also maintained that once confirmation was received, Loza called claimant to tell him how much was due. Respondents contended that claimant stated he would send the money. Respondents contended that claimant gave no indication, nor was the issue raised that Loza or IAI would pay for this transaction.

#### **RELIEF REQUESTED**

Claimant requested \$4,066.00 in damages, or 1000 shares of GMD Resources, Ltd.

Respondents requested that the claims of claimant be dismissed in their entirety, plus costs, fees, expenses, and reasonable attorneys' fees in an amount not less than \$5,000.00, and other relief as justice and equity require.

#### **AWARD**

Pursuant to Section 10302 of the Code of Arbitration Procedure, a single Public Arbitrator, James H. Colburn, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by claimant Kirk Yorgey on August 30, 1996 and not by respondents as required by Section 10301 and 10302 of the Code of Arbitration Procedure.

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

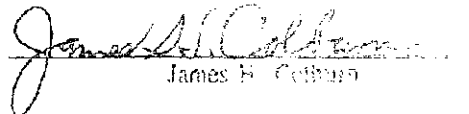
1. Respondents Investors Associates, Inc. and Roberto Loza be and hereby are jointly and severally liable and shall pay to claimant Kirk Yorgey the sum of \$2,508.50, representing the difference in the buy and sell orders of CAML.
2. Respondents Investors Associates, Inc. and Roberto Loza be and hereby are jointly and severally liable and shall deliver to claimant 850 shares of GMD Resources, Ltd.
3. Respondents Investors Associates, Inc. and Roberto Loza be and hereby are jointly and severally liable and shall pay claimant interest on \$2,508.50, at the rate of 5.5% per annum from May 9, 1996 to the date of payment of the award.
4. All other relief requests are denied.

Page Three  
Award 96-03946

5. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers Regulation, Inc. by claimant Kirk Yorgey shall be retained by NASD Regulation, Inc. Respondents NASD Regulation, Inc. and Robertn Loza be and hereby are jointly and severally liable and shall pay claimant Kirk Yorgey, the sum of \$125.00 as reimbursement of the filing fee.

AFFIRMATION

I, **James H. Colburn**, do hereby affirm upon my oath as arbitrator of the dispute described herein and who executed this instrument, which is my oath and affirmation.

  
James H. Colburn

Date of Decision: March 6, 1997