

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Steven Malise, (Claimant) vs. A.G. Edwards & Sons, Inc. and Jens Dalsgaard, (Respondents)

Case Number: 00-00717

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant Steven Malise, hereinafter referred to as "Claimant": Randy Scott Zelin, Esq., a sole practitioner, Westbury, NY.

Respondents A.G. Edwards & Sons, Inc. ("Edwards") and Jens Dalsgaard ("Dalsgaard"), hereinafter collectively referred to as "Respondents": Jeff Jamieson, Esq., Vice President & Counsel, A.G. Edwards & Sons, Inc., St. Louis, MO.

CASE INFORMATION

Statement of Claim filed on or about: February 15, 2000.
Amended Statement of Claim filed on or about: February 24, 2000.
Claimant signed the Uniform Submission Agreement: January 31, 2000.

Statement of Answer filed by Respondents on or about: May 8, 2000.
Edwards signed the Uniform Submission Agreement: March 29, 2000.
Dalsgaard signed the Uniform Submission Agreement: April 10, 2000.

CASE SUMMARY

Claimant asserted the following causes of action: unauthorized trades; failure to execute trades; overtrading; fraudulent misrepresentations of material fact; breach of fiduciary duty; failure to disclose compensation information; violations of federal securities laws; and common law fraud. Claimant's claim involved the stocks of Comprehensive Care Corp. and Source Media, Inc., as well as other unspecified securities.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant is barred from recovery against Respondents as a result of Claimant's failure to object or notify Edwards of the acts and omissions of which he now complains within ten days of receipt of written confirmations, account statements, and other documents evidencing or setting forth the transactions in Claimant's account; Claimant is barred from recovery against Respondents under the doctrines of ratification, account stated, estoppel, waiver, and laches; Claimant failed to act promptly and with due diligence to mitigate his damages after he knew or should have known of the alleged acts and omissions of which he complains; by failing to exercise the degree of care over his affairs and investments which an ordinarily prudent investor would exercise, Claimant caused or contributed to the alleged damages of which he

complains herein and is thus barred by his contributory negligence from recovering such alleged damages; Claimant was aware from the outset of the risks of profit and loss associated with investing in securities, and voluntarily assumed such risk; the damages allegedly suffered by Claimant were caused, if at all, by unforeseeable market factors and conditions affecting the value of securities in Claimant's account, for which Respondents are not liable or responsible; Claimant's claims are barred, in whole or in part, by the applicable statutes of limitations; the Statement of Claim, and each count therein, fails to state a claim against Respondents upon which relief can be granted; and Claimant authorized the alleged conduct of Respondents about which he now complains.

RELIEF REQUESTED

Claimant requested:

- a. Compensatory damages in the amount of \$685,000.00, with interest thereon;
- b. Damages based upon, *inter alia*, lost value, interest, commissions and fees paid, in an amount to be determined at the hearing;
- c. The imposition of punitive damages;
- d. An Award of attorneys' fees;
- e. An Award for all forum fees assessed in connection with this arbitration, whether actually expended or due to be expended; and
- f. Such other and further relief as may be deemed just and proper.

Respondents requested:

- a. That judgement be entered on behalf of Respondents and against Claimant on the claims of Claimant in this arbitration proceeding;
- b. That all costs of this arbitration proceeding including, but not limited to, forum fees and Respondents' reasonable costs and expenses incurred in defending this matter, be assessed against Claimant; and
- c. Such further relief as the Panel deems appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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.

During the hearings conducted in this matter, the panel approved the parties' stipulation to add Champion Cadillac Oldsmobile and Richgene Reality, Inc. as Claimants to this arbitration. In accordance with the panel's determination, Claimants Champion Cadillac Oldsmobile and Richgene Reality, Inc. submitted signed Uniform Submission Agreements on or about September 5, 2001.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the

Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents be and hereby are jointly and severally liable for and shall pay to Claimant the sum of \$374,134.38 as compensatory damages, plus interest in the amount of \$18,786.68.
2. Claimant's request for punitive damages is hereby denied.
3. All other requests for relief are hereby denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 375.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, A.G. Edwards & Sons, Inc. is a party.

Member surcharge	= \$2,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$3,500.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel x \$1,200.00	= \$2,400.00
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Pre-hearing conferences:	August 24, 2000	1 session
	March 16, 2001	1 session

Six (6) Hearing sessions x \$1,200.00	= \$7,200.00
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Hearing Dates:	August 14, 2001	2 sessions
	August 15, 2001	2 sessions
	August 16, 2001	2 sessions

Total Forum Fees	= \$9,600.00
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The Panel has assessed all of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant be and hereby is solely liable for:

<u>Initial Filing Fee</u>	= \$ 375.00
<u>Total Fees</u>	= \$ 375.00
<u>Less payments</u>	= \$1,575.00
<u>Refund Due Claimant</u>	= \$1,200.00

2. Edwards be and hereby is solely liable for:

<u>Member Fees</u>	= \$6,100.00
<u>Total Fees</u>	= \$6,100.00
<u>Less payments</u>	= \$6,100.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$ 0.00

3. Respondents be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$9,600.00
<u>Total Fees</u>	= \$9,600.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$9,600.00

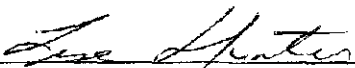
All balances are due and payable to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Lise Gabrielle Hunter, Esq.	-	Public Arbitrator, Presiding Chair
Douglas John Baumann, Esq.	-	Public Arbitrator
John J. Phelan, Esq.	-	Industry Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Lise Gabrielle Hunter, Esq.
Public Arbitrator, Presiding Chair

9/27/01

Signature Date

Douglas John Baumann, Esq.
Public Arbitrator

Signature Date

John J. Phelan, Esq.
Industry Arbitrator

Signature Date

October 5, 2001

Date of Service (For NASD office use only)

ARBITRATION PANEL

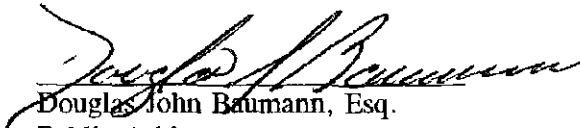
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Lise Gabrielle Hunter, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Douglas John Baumann, Esq.
Public Arbitrator

10-2-01

Signature Date

John J. Phelan, Esq.
Industry Arbitrator

Signature Date

October 5, 2001

Date of Service (For NASD office use only)

ARBITRATION PANEL

Lise Gabrielle Hunter, Esq.	-	Public Arbitrator, Presiding Chair
Douglas John Baumann, Esq.	-	Public Arbitrator
John J. Phelan, Esq.	-	Industry Arbitrator

Concurring Arbitrators' Signatures

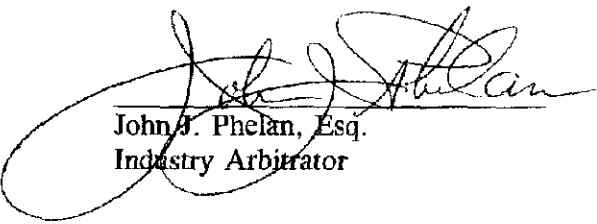
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Lise Gabrielle Hunter, Esq.
Public Arbitrator, Presiding Chair

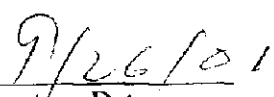
Signature Date

Douglas John Baumann, Esq.
Public Arbitrator

Signature Date



John J. Phelan, Esq.
Industry Arbitrator



Signature Date

October 5, 2001

Date of Service (For NASD office use only)

RECIPIENTS:

John J. Phelan, Esq.
Lise Gabrielle Hunter, Esq.
Douglas John Baumann, Esq.