

Stipulated Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between: Claimant Milton L. Strickland v. A.G. Edwards & Sons, Inc.

Case Number: 00-00864

Hearing Site: Houston, Texas

REPRESENTATION OF PARTIES

Claimant Milton Strickland referred to herein as "Claimant": L. Jerome Stanley, Esq., L. Jerome Stanley, P.C., Baton Rouge, Louisiana.

Respondent A.G. Edwards & Sons, Inc., hereinafter Referred to as "Respondent": M. Jane Matoesian., A.G. Edwards & Sons, Inc., St. Louis, Missouri.

CASE INFORMATION

Claimant filed a Statement of Claim on or about: March 16, 2000.
Claimant signed a Uniform Submission Agreement on December 4, 1999.

Respondent filed a Statement of Answer on or about: June 1, 1999.
Respondent filed a Uniform Submission Agreement on May 5, 2000.

CASE SUMMARY

Claimant asserted the following causes of action: Respondent, through its registered representative Frank Burdick, improperly handled Claimants Individual Retirement Account held with Respondent from 1997-1999. Claimant alleged that, during this period, Burdick convinced him to sell his large capitalized stock portfolio and then purchased a series of lower quality stocks. Claimant further alleged that these recommendations were contrary to his primary investment objective of income and secondary objective of growth. Claimant further alleged that he lost \$94,657.86 on transactions in America Eco, American Pad & Pencil, OEA, Fruit of the Loom and Andrew Corp. Claimant set forth the following legal basis for his claims: Violation of the Texas Securities Act, Breach of Contract, and Breach of Fiduciary Duty. He further alleged that Respondent was vicariously liable under the doctrine of Respondeat Superior for Burdick's actions.

Unless specifically admitted in its Statement of Answer, Respondent denied all the allegations in the Statement of Claim and alleged the following affirmative defenses:

As a result of Claimant's failure to object or notify Respondent of the acts and omissions of which he complained after receipt of written confirmations, account statements and other documents evidencing or setting forth transactions in his accounts, he is barred from recovering from Respondent under his account agreements with Respondent and under the Uniform Commercial Code as enacted in the State of Texas. As a result of Claimant's failure to notify Respondent of the alleged acts and omissions of which he complained promptly after receipt of written confirmations, monthly statements and other documents evidencing or setting forth transactions in his accounts and, in any event, promptly after he discovered or reasonably should have discovered the alleged acts or omissions, he was barred from recovering from Respondent under the doctrines of ratification, account stated, estoppel, waiver and laches because Respondent relied upon the aforesaid silence of Claimant. Claimant failed to act promptly and with due diligence to mitigate his damages. The Statement of Claim and each count thereof failed to state a claim upon which relief can be granted. Claimant waived and/or is estopped from asserting claims against Respondent by virtue of his conduct and dealings with Respondent and Burdick. Claimant ratified the alleged conduct about which he complained. Claimant's claims are barred by the applicable statutes of limitation. Claimant is barred from any recovery for any of the alleged conduct of Respondent and Burdick by the doctrine of laches. Respondent owed no fiduciary duty to Claimant under Texas law, as this was a discretionary account. To the extent the Statement of Claim alleges a violation of the rules of National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., or any other self-regulatory organization, the Claim fails to state a claim for relief, as there is no private cause of action for the violation of such rules or regulations.

RELIEF REQUESTED

Claimant requested:

| | |
|----------------------|----------------|
| Compensatory Damages | \$ 94,657.86 |
| Punitive Damages | \$ Unspecified |
| Interest | \$ Unspecified |
| Attorneys' Fees | \$ Unspecified |
| Other Costs | \$ Unspecified |

Respondents requested that the claims against it be dismissed in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On or about March 12, 2001, the parties informed NASD Dispute Resolution Inc., that they had entered into a settlement agreement. Subsequently, the parties filed a Proposed Stipulated Award with the NASD Dispute Resolution in which they request that the Panel approve the agreement and enter an Order expunging all references to this case from the Central Registration Depository ("CRD") records of Frank Burdick.

AWARD

After considering the pleadings and evidence presented at the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against Respondent A.G. Edwards & Sons, Inc., are dismissed in their entirety;
2. The Panel recommends the expungement of all references to the above-captioned arbitration from Frank Burdick's registration records maintained by CRD, with the understanding that pursuant to Notice to Members 99-09, Mr. Burdick must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive;
3. All parties shall bear their respective costs, including attorneys' fees;
4. Unless specifically enumerated herein, each party is liable for their own costs;
5. Any relief not specifically awarded herein is 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 | = \$ 225.00 |
|--------------------------|-------------|

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 persons at the time of the events giving rise to the dispute. In this matter, the member firms are the Respondent firm.

| | |
|---------------------------|---------------|
| Member Surcharge | = \$ 1,000.00 |
| Prehearing Processing Fee | = \$ 600.00 |
| Hearing Processing Fee | = \$ 1,500.00 |

Forum Fees and Assessments

The panel has the authority to assess 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 the Panel x \$750.00 | = \$ 1,500.00 |
|--|---------------|

Pre-hearing conferences:

| | |
|------------------|-----------|
| October 4, 2000 | 1 session |
| January 24, 2001 | 1 session |

| | |
|------------------|--------------|
| Total Forum Fees | = \$ 1500.00 |
|------------------|--------------|

1. The panel has assessed \$ 750.00 of the forum fees to Claimant Milton L. Strickland.
2. The panel has assessed \$ 750.00 of the forum fees to Respondent A.G. Edwards & Sons.

Fee Summary

1. Claimant Milton L. Strickland is solely liable for:

| | |
|--|--------------------|
| Initial Filing Fee | = \$ 225.00 |
| Forum Fees | = \$ 750.00 |
| <u>Total Fees</u> | <u>= \$ 975.00</u> |
| <u>Less Payments</u> | <u>= \$ 975.00</u> |
| Balance due to NASD Dispute Resolution | = \$ 00 |

2. Respondent, A.G. Edwards & Sons is solely liable for:

| | |
|--|----------------------|
| Member Fees | = \$ 3,100.00 |
| Forum Fees | = \$ 750.00 |
| <u>Total Fees</u> | <u>= \$ 3,850.00</u> |
| <u>Less payments</u> | <u>= \$ 3,100.00</u> |
| Balance Due to NASD Dispute Resolution, Inc. | = \$ 750.00 |

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

| | |
|--------------------------------|--------------------------------------|
| Theodore E. Davis, Esq. | - Public Arbitrator, Presiding Chair |
| John Kerlin Walters, Jr., Esq. | - Non- Arbitrator |
| Paul E. Jones, Jr. | - Non-Public Arbitrator |

Concurring Arbitrators' Signatures

Theodore E. Davis Esq.
Public Arbitrator, Presiding Chair

Signature Date

John Kerlin Walters Jr., Esq.
Non- Arbitrator

Signature Date

Paul E. Jones, Jr.
Public Arbitrator

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)

Strickland v. A.G. Edwards

NASD-DR # 00-00864

p. 4 of 4

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ARBITRATION PANEL

Theodore E. Davis, Esq.

- Public Arbitrator, Presiding Chair

John Kerlin Walters, Jr., Esq.

- Non- Arbitrator

Paul E. Jones, Jr.

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Public Arbitrator, Presiding Chair



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Signature Date

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John Kerlin Walters, Jr., Esq.
Paul E. Jones, Jr.

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- Non- Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures

Theodore E. Davis Esq.
Public Arbitrator, Presiding Chair

Signature Date


John Kerlin Walters Jr., Esq.
Non- Arbitrator

02/08/02
Signature Date

Paul E. Jones, Jr.
Public Arbitrator

Signature Date

Date of Service (For NASD-Dispute Resoluti

| | | | |
|------------------------|----------------|---------|--------------|
| Post-It* Fax Note 7671 | | Date | # of pages |
| To | Amy Rees | From | John Walters |
| Co./Dept. | STAFF ATTORNEY | Co. | |
| Phone # | | Phone # | |
| Fax # | 1-312 236 9239 | Fax # | |

Strickland v. A.G. Edwards

NASD-DR # 00-00864

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Concurring Arbitrators' Signatures

Theodore E. Davis Esq.

Public Arbitrator, Presiding Chair

Signature Date

John Kerlin Walters Jr., Esq.

Non- Arbitrator

Signature Date

Paul E. Jones, Jr.

Public Arbitrator

Feb. 8, 2002

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)