

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between

Name of Claimant

Wallace L. Parr

Case No. 00-03880

Hearing Site: Boca Raton, Florida

Name of Respondent

A.G. Edwards & Sons, Inc.

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**REPRESENTATION OF PARTIES**

For Wallace L. Parr ("Parr") hereinafter referred to as "Claimant": Tim B. Wright, Esq., Warner, Fox, Wackeen, Dungey, Seeley, Sweet, Wright and Beard, L.L.P., Stuart, Florida.

For A.G. Edwards & Sons, Inc. ("Edwards") hereinafter referred to as "Respondent": Nuviah Shirazi, Litigation Counsel, A.G. Edwards & Sons, Inc., St. Louis, Missouri.

**CASE INFORMATION**

Statement of Claim filed on or about: September 5, 2000.

Amended Statement of Claim filed on or about: October 13, 2000.

Claimant signed the Uniform Submission Agreement: October 10, 2000.

Statement of Answer filed by Respondent on or about: November 1, 2000.

Respondent signed the Uniform Submission Agreement: October 30, 2000.

**CASE SUMMARY**

Claimant asserted the following: 1) Respondent violated Chapter 517, Florida Statutes; 2) Respondent breached its oral agreement with Claimant; 3) Respondent negligently misrepresented the facts, nature and suitability of the transactions to Claimant; 4) Respondent breached its fiduciary duty to Claimant; and 5) Respondent negligently supervised its employee. The causes of action relate to the sale of General Datacom and Anheuser Busch securities, the purchase and sale of Diamond Offshore Drilling, Inc. securities, and the purchase of Transocean Offshore, Inc. securities.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: 1) the Statement of Claim fails to state a cause of action upon which relief can be granted; 2) Claimant is barred from recovery under the doctrines of ratification, accounts stated, estoppel, waiver and laches; 3) Claimant

failed to mitigate his alleged damages; 4) Claimant is barred by his comparative negligence; 5) Claimant knowingly and voluntarily assumed the risk associated with trading in his accounts; 6) any damages suffered by Claimant were the result of unforeseeable market factors and conditions for which Respondent is not liable or responsible; and 7) Claimant's claims are barred by the applicable statute of limitations.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of less than \$100,000.00, plus interest, attorney's fees, the costs of this proceeding, and such other relief as is deemed just and proper.

Respondent requested that all claims against it be dismissed and that the costs of this proceeding be assessed against Claimant.

### **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.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

Respondent Edwards is liable and shall pay to Claimant the sum of \$10,000.00 in compensatory damages, pre-judgment interest specifically excluded. The Award is based upon Respondent's breach of fiduciary duty and negligent supervision.

Any and all other requests for relief not specifically addressed herein, including Claimant's request for attorney's fees, are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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	= \$250.00
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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, the member firm is a party.

Member surcharge	= \$1,200.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,500.00

### **Adjournment Fees**

Adjournments requested during these proceedings:

May 22 to May 24, 2001, adjournment requested by Respondent = \$ 750.00

### **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:

One (1) Pre-hearing session with a single arbitrator x \$450.00	= \$ 450.00
Pre-hearing conference: March 5, 2001	1 session
Two (2) Pre-hearing sessions with Panel x \$750.00	= \$1,500.00
Pre-hearing conferences: February 12, 2001	1 session
May 8, 2001	1 session
Seven (7) Hearing sessions x \$750.00	= \$5,250.00
Hearing Dates: June 27, 2001	3 sessions
June 28, 2001	2 sessions
June 29, 2001	2 sessions
Total Forum Fees	= \$7,200.00

The panel has assessed \$3,600.00 of the forum fees to Claimant.

The panel has assessed \$3,600.00 of the forum fees to Respondent.

### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during this proceeding.

**Fee Summary**

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$3,600.00

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Total Fees	= \$3,850.00
Less payments	= \$1,425.00

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Balance Due NASD Dispute Resolution, Inc.	= \$2,425.00
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Respondent be and hereby is solely liable for:

Member Fees	= \$3,300.00
Adjournment Fee	= \$ 750.00
Forum Fees	= \$3,600.00

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Total Fees	= \$7,650.00
Less payments	= \$4,800.00

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Balance Due NASD Dispute Resolution, Inc.	= \$2,850.00
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All balances are due and payable to NASD Dispute Resolution, Inc. immediately upon receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

<i>Sandra J. Galloway</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Marie G. Peterson, CPA</i>	-	<i>Public Arbitrator</i>
<i>Sydney I. Josepher</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/s/  
Sandra J. Galloway  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

\_\_\_\_\_/s/  
Marie G. Peterson, CPA  
Public Arbitrator

\_\_\_\_\_  
Signature Date

/s/

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Sydney I. Josepher  
Non-Public Arbitrator

**Signature Date**

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

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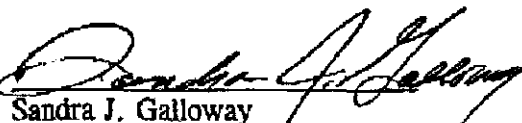
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Public Arbitrator, Presiding Chair

  
Signature Date

Marie G. Peterson, CPA  
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Marie G. Peterson, CPA	-	Public Arbitrator
Susan L. Josepher	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Sandra J. Gallaway  
Public Arbitrator, Presiding Chair

Signature Date



Marie G. Peterson, CPA  
Public Arbitrator

9/19/01  
Signature Date

NASD Dispute Resolution, Inc.

Arbitration No. 04-03880

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Sydney L. Joseph  
Non-Public Arbitrator

9/20/01  
Signature Date

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