

AWARD
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimants

Nancy M. Perry and The Gilbert David Perry Rowe 1997 Trust

and

00-05149
Dallas, Texas

Name of Respondents

A.G. Edwards & Sons, Inc. and Ted G. Gray, Jr.

REPRESENTATION OF PARTIES

Nancy M. Perry and The Gilbert David Perry Rowe 1997 Trust ("**Claimants**") were represented by Michael G. O'Neill, Esq., Law Offices of Michael G. O'Neill, Dallas, Texas.

A.G. Edwards & Sons, Inc. and Ted G. Gray, Jr. ("**Respondents**") were represented by Michael Naccarato, Esq., in house counsel A.G. Edwards & Sons, Inc., St. Louis, MO.

CASE INFORMATION

The Statement of Claim was filed on or about November 20, 2000. Submission Agreement of Claimant Nancy M. Perry was signed on May 10, 2000. Submission Agreement of Claimant The Gilbert David Perry Rowe 1997 Trust was signed on May 15, 2000.

Statement of Joint Answer was filed by Respondents A.G. Edwards & Sons, Inc. and Ted G. Gray, Jr. on or about January 16, 2001. Submission Agreement of Respondent A.G. Edwards & Sons, Inc. was signed on December 1, 2000. Submission Agreement of Respondent Ted G. Gray, Jr. was signed on December 2, 2000.

CASE SUMMARY

Claimant alleged that her accounts were mismanaged by Respondents. She asserted causes of action including breach of fiduciary duty, churning, failure to supervise, misrepresentation and suitability.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated that Respondents investment strategy was authorized and suitable, and it proved to be

profitable as Claimants left Respondents in May 1998 with realized and unrealized gains of more than sixty eight thousand dollars (\$68,000.00). Respondents asserted defenses including the following: all of the transactions in Claimants account were executed with the express authorization of Claimants and Claimants failed to comply with an agreement with Edwards, thus any losses regarding the transactions are to be born by Claimants.

RELIEF REQUESTED

Claimant requested an award in the amount of \$410,000 in compensatory damages, punitive damages, reasonable attorney's fees, filing fees, expert costs, and other costs.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorney's fees.

OTHER ISSUES CONSIDERED & 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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution, Inc. (the "NASD").

AWARD

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

1. A.G. Edwards & Sons, Inc. is liable for and shall pay Claimants Nancy M. Perry and The Gilbert David Perry Rowe 1997 Trust one hundred thirty five thousand dollars (\$135,000.00) in compensatory damages;
2. A.G. Edwards & Sons, Inc. and Ted G. Gray, Jr. are jointly and severally liable for and shall pay Claimants Nancy M. Perry and Gilbert David Perry Rowe 1997 Trust ninety thousand dollars (\$90,000.00) in compensatory damages;
3. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice;
4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorney's fees.

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 = \$300.00

Member Fees

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

Member surcharge = \$1,500.00
Pre-hearing process fee = \$600.00
Hearing process fee = \$2,500.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), 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: April 12, 2001 1 session	
One (1) Pre-hearing session with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: May 30, 2001 1 session	
Eight (8) Hearing sessions x \$1,125.00	= \$9,000.00
Hearing Dates: October 2, 2001 2 sessions	
October 3, 2001 2 sessions	
October 4, 2001 2 sessions	
October 5, 2001 <u>2 sessions</u>	
Total Forum Fees	= \$10,575.00

The Arbitration Panel has assessed \$10,575 of the forum fees to Respondent A.G. Edwards & Sons.

Fee Summary

Claimants, A.G. Edwards & Son, Inc. and The Gilbert David Perry Rowe 1997 Trust, shall be and hereby are jointly and severally liable for:

Initial Filing Fee = \$300.00

<u>Forum Fees</u>	= \$00.00
Total Fees	= \$300.00
<u>Less payments</u>	= \$1,425.00
Refund Due Claimants	= \$1,125.00

Respondent, A.G. Edward & Sons, Inc., shall be and hereby is liable for:

Member Fees	= \$4,600.00
<u>Forum Fees</u>	= \$10,575.00
Total Fees	= \$15,175.00
<u>Less payments</u>	= \$2,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$13,075.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

(Maxel B. Silverberg) – Public Arbitrator, Presiding Chair
(Alice A. Waters) - Public Arbitrator
(William B. Reagan) - Non-Public Arbitrator

Concurring Arbitrators:

Maxel B. Silverberg
Public Arbitrator, Presiding Chair

Signature Date

Alice Waters
Public Arbitrator

Signature Date

William B. Reagan
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution, Inc.
Arbitration No. 00-05149
Award Page 4 of 4

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(Alice A. Waters) - Public Arbitrator
(William B. Reagan) - Non-Public Arbitrator

~~Concurring Arbitrators:~~


Maxel B. Silverberg
Public Arbitrator, Presiding Chair

11/16/01
Signature Date

Alice Waters
Public Arbitrator

Signature Date

William B. Reagan
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution, Inc.
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Award Page 4 of 4

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Concurring Arbitrators:

Maxel B. Silverberg
Public Arbitrator, Presiding Chair

Signature Date

Alice A Waters

Alice Waters
Public Arbitrator

11-15-01

Signature Date

William B. Reagan
Non-Public Arbitrator

Signature Date

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Concurring Arbitrators:

Maxel B. Silverberg
Public Arbitrator, Presiding Chair

Signature Date

Alice Waters
Public Arbitrator

Signature Date



William B. Reagan
Non-Public Arbitrator

11/14/01

Signature Date