

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

In the Matter of the Arbitration Between

Name of Claimant

Richard L. Bevins, on behalf of the Richard L. Bevins  
IRA and as Trustee for the Richard L. Bevins Trust FBO  
Richard L. Bevins

Case No. 00-05483  
Hearing Site: St. Louis, Missouri

Name of Respondents

A.G. Edwards & Sons, Inc. and Richard O. Stocke, Jr.

**REPRESENTATION OF PARTIES**

Claimant Richard L. Bevins, on behalf of the Richard L. Bevins IRA and as Trustee for the Richard L. Bevins Trust FBO Richard L. Bevins ("Bevins") was represented by Sherri C. Strand, Esq., of the firm of Paule, Camazine & Blumenthal, P.C., located in St. Louis, Missouri.

Respondents A.G. Edwards & Sons, Inc. ("A.G. Edwards") and Richard O. Stocke, Jr. ("Stocke") were represented by Jeff Jamieson, Esq. of A.G. Edwards & Sons, Inc., St. Louis, Missouri.

**CASE INFORMATION**

Statement of Claim filed on or about: December 11, 2000.  
Claimant signed the Uniform Submission Agreement: December 7, 2000.

Statement of Answer filed by Respondents on or about: February 9, 2001.  
Respondent A.G. Edwards signed the Uniform Submission Agreement: December 8, 2000.  
Respondent Stocke signed the Uniform Submission Agreement: January 25, 2001.

**CASE SUMMARY**

Bevins asserted the following causes of action: breach of contract; negligence; breach of fiduciary duty; failure to supervise; and violation of the Missouri securities laws. The causes of action related to transactions involving the Proctor & Gamble stock in the accounts and the transfer of the account after severe losses in value had occurred.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses:

1. The Claimants is barred from recovery under Section 8-319 of the Uniform Commercial Code as enacted in the State of Missouri because of his failure to complain within ten days of the receipt of confirmations, account statements and other documents;
2. The Claimant is barred from recovery under the doctrines of ratification, account stated, estoppel, waiver and laches;
3. The Claimant failed to act promptly and with due diligence to mitigate damages;
4. The Claimant failed to exercise the degree of care over his affairs and investments which an ordinarily prudent investor would exercise and is barred from recovery;
5. The Claimant's knowing and voluntary assumption of the risks of profit and loss was the sole and proximate cause of the alleged damages;
6. The damages allegedly suffered were caused by unforeseeable market factors and conditions for which Respondents are not liable or responsible; and,
7. The Statement of Claim fails to state a claim against A.G. Edwards upon which relief can be granted.

#### **RELIEF REQUESTED**

Claimant Bevins requested compensatory damages of approximately \$339,818.00; pre- and post-award interest; attorneys' fees; costs of arbitration, including, but not limited to expert witness fees, expenses and accounting fees; and such other relief as the panel deems appropriate. At the hearing, Claimant presented evidence of compensatory damages of approximately \$414,000.00.

Respondents A.G. Edwards & Sons, Inc. and Richard O. Stoeke, Jr. requested:

1. That judgment be entered on behalf of Respondents and against Claimant;
2. That all costs of the proceeding, including, but not limited to, forum fees and Respondents' reasonable costs and expenses incurred in defending this matter, be taxed against Claimant; and,
3. For such other relief as the Panel deemed appropriate.

#### **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 A.G. Edwards & Sons, Inc. and Richard O. Stoeke, Jr. are jointly and severally liable for and shall pay to Claimant Richard L. Bevins, on behalf of the Richard L. Bevins IRA and as Trustee for the Richard L. Bevins Trust FBO Richard L. Bevins, the sum of \$372,363.00 as compensatory damages, plus interest at the rate of four (4%) per cent per annum accruing from September 1, 2000 until August 8, 2001;
2. In addition, Respondents A.G. Edwards & Sons, Inc. and Richard O. Stoeke, Jr. are jointly and severally liable for and shall pay to Claimant Richard L. Bevins, on behalf of the Richard L. Bevins IRA and as Trustee for the Richard L. Bevins Trust

FBO Richard L. Bevins, the sum of \$14,725 as attorneys' fees. In deciding to award attorneys' fees, the panel considered the arguments presented by the counsel, as well as the pleading filed in this matter, and determined that authority existed for an award of attorneys' fees to the Claimant;

3. Furthermore, Respondents A.G. Edwards & Sons, Inc. and Richard O. Stocke, Jr. are jointly and severally liable for and shall pay to Claimant Richard L. Bevins, on behalf of the Richard L. Bevins IRA and as Trustee for the Richard L. Bevins Trust FBO Richard L. Bevins, the sum of \$1,560.00 as costs;
4. All remaining costs of arbitration, including any additional attorneys' fees, shall be borne by the party incurring the cost;
5. Any and all relief not specifically addressed 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** = \$ 300.00

#### **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 person at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

**Member surcharge** = \$ 1,500.00

**Pre-hearing process fee** = \$ 600.00

**Hearing process fee** = \$ 2,500.00

#### **Adjournment Fees**

Adjournments requested during these proceedings: None.

#### **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 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 Panel x \$1,125.00 = \$ 1,125.00

Pre-hearing conference: May 25, 2001 1 session

Three (3) Hearing sessions x \$1,125.00 = \$ 3,375.00

Hearing Dates: August 8, 2001 2 sessions

August 9, 2001 1 session

NASD Dispute Resolution, Inc.  
Arbitration No. 00-05483  
Award Page 4

NASD Dispute Resolution, Inc.  
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Total Forum Fees = \$ 4,500.00

The panel has assessed \$4,500.00 of the forum fees to Respondent A.G. Edwards & Sons, Inc.

**SEE SUMMARY**

Claimant Richard L. Bevins, on behalf of the Richard L. Bevins IRA and as Trustee for the Richard L. Bevins Trust FBO Richard L. Bevins, is solely liable for:

Initial Filing Fee	= \$ 300.00
Less payments	= \$ 1,425.00
Balance Refunded by NASD Dispute Resolution, Inc.	= \$ 1,125.00

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

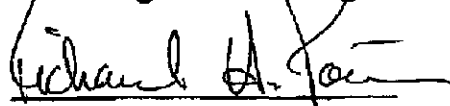
Member Fees	= \$ 4,600.00
Forum Fees	= \$ 4,500.00
Total Fees	= \$ 9,100.00
Less payments	= \$ 4,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 4,500.00

All balances are due to NASD Dispute Resolution, Inc.

**ARBITRATION PANEL**

Richard H. Potter-Public Arbitrator, Presiding Chair  
Robert G. Haddenhorst, Sr.-Public Arbitrator  
David L. Shores-Non-Public Arbitrator

**Concurring Arbitrators' Signatures**



Richard H. Potter  
Public Arbitrator, Presiding Chair

8.29.01

Signature Date

Robert G. Haddenhorst, Sr.  
Public Arbitrator

Signature Date

David L. Shores  
Non-Public Arbitrator

Signature Date

Date of Service: 9.07.01 (For NASD-Dispute Resolution office use only)

Total Forum Fees = \$ 4,500.00

The panel has assessed \$4,500.00 of the forum fees to Respondent A.G. Edwards & Sons, Inc.

**FEE SUMMARY**

Claimant Richard L. Bevins, on behalf of the Richard L. Bevins IRA and as Trustee for the Richard L. Bevins Trust FBO Richard L. Bevins, is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Refunded by NASD Dispute Resolution, Inc.	= \$ 1,125.00

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

Member Fees	= \$ 4,600.00
<u>Forum Fees</u>	<u>= \$ 4,500.00</u>
Total Fees	= \$ 9,100.00
<u>Less payments</u>	<u>= \$ 4,600.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 4,500.00

All balances are due to NASD Dispute Resolution, Inc.

**ARBITRATION PANEL**

Richard H. Potter-Public Arbitrator, Presiding Chair

Robert G. Haddenhorst, Sr.-Public Arbitrator

David L. Shores-Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Richard H. Potter  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
Robert G. Haddenhorst, Sr.  
Public Arbitrator

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

*Robert G. Haddenhorst, Sr.*  
30 Aug. 2001

\_\_\_\_\_  
David L. Shores  
Non-Public Arbitrator

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

Date of Service: 9.07.01 (For NASD-Dispute Resolution office use only)

Total Forum Fees = \$ 4,500.00

The panel has assessed \$4,500.00 of the forum fees to Respondent A.G. Edwards & Sons, Inc.

**FEE SUMMARY**

Claimant Richard L. Bevins, on behalf of the Richard L. Bevins IRA and as Trustee for the Richard L. Bevins Trust FBO Richard L. Bevins, is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Refunded by NASD Dispute Resolution, Inc.	= \$ 1,125.00

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

Member Fees	= \$ 4,600.00
<u>Forum Fees</u>	<u>= \$ 4,500.00</u>
Total Fees	= \$ 9,100.00
<u>Less payments</u>	<u>= \$ 4,600.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 4,500.00

All balances are due to NASD Dispute Resolution, Inc.

**ARBITRATION PANEL**

Richard H. Potter, Public Arbitrator, Presiding Chair  
Robert G. Haddenhorst, Sr. Public Arbitrator  
David L. Shores-Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Richard H. Potter  
Public Arbitrator, Presiding Chair

Signature Date

Robert G. Haddenhorst, Sr.  
Public Arbitrator

Signature Date

David L. Shores  
Non-Public Arbitrator

8/27/01  
Signature Date

Date of Service: 9.07.01 (For NASD-Dispute Resolution office use only)