

Amended Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 01-01223

Cyril and Willena Burke, Individually
and as Joint Tenants With Right of
Survivorship, Cyril Burke as owner of
the Cyril Burke Roth Rollover IRA,
Willena Burke as owner of the
Willena Burke Roth Rollover IRA and
Albert Raoul Barsion, as Attorney-in-
Fact for Albert Barsion under Power of
Attorney Dated 09/01/98 and as
Successor Trustee of the Albert
Barsion Trust U/A DTD 3-2-95

Names of the Respondents

Hearing Site: Tampa, Florida

A.G. Edwards & Sons, Inc.
Paul R. Vogel, Jr.

REPRESENTATION OF PARTIES

For Cyril and Willena Burke, Individually and as Joint Tenants With Right of Survivorship, Cyril Burke as owner of the Cyril Burke Roth Rollover IRA, Willena Burke as owner of the Willena Burke Roth Rollover IRA ("Burke") and Albert Barsion, as Attorney-in-Fact for Albert Barsion under Power of Attorney Dated 09/01/98 and as Successor Trustee of the Albert Barsion Trust U/A DTD 3-2-95 ("Barsion"), hereinafter collectively referred to as "Claimants": Jeffrey P. Coleman, Esq., Coleman Law Firm, Clearwater, Florida.

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

For Respondent Paul R. Vogel, Jr. ("Vogel"): Marc S. Dobin, Esq., Dobin & Jenks, LLP, Jupiter, Florida.

CASE INFORMATION

Statement of Claim filed on or about: March 7, 2001.

Amended Statement of Claim filed on or about: May 24, 2001.

Claimants' Response to Motion to Bifurcate filed on or about: June 7, 2001.

Claimants Burke signed the Uniform Submission Agreement: January 23, 2001.

Claimant Barsion signed the Uniform Submission Agreement: February 7, 2001 by Albert Barsion, Attorney-in-Fact.

Respondents' Statement of Answer in Response to Statement of Claim filed by Cyril and Willena Burke

filed on or about: May 22, 2001.

Respondents' Statement of Answer in Response to Statement of Claim filed by Albert Barsion filed on or about: May 22, 2001.

Motion to Bifurcate filed on or about: May 22, 2001.

Respondent Edwards signed the Uniform Submission Agreement: May 22, 2001.

Respondent Vogel signed the Uniform Submission Agreement: May 23, 2001.

CASE SUMMARY

Claimants asserted the following causes of action: violations of state securities law and common law of the state of Florida including Chapter 517, Florida Statutes; respondeat superior and negligent supervision; negligence and gross negligence; breach of fiduciary duty; and, breach of contract/violation of industry standards. The causes of action relate to the Claimants' large positions in and over concentration in their accounts of shares of Able Telecom Holding Corporation and American International Foods.

Unless specifically admitted in their Answers, Respondents denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimants requested the following in their Statement of Claim:

1. Total compensatory damages as follows:
 - a. Burke-Joint Account \$131,651.00
 - b. Burke-Cyril-IRA Account \$31,902.00
 - c. Burke-Willena-IRA Account \$15,958.00
 - d. Barsion \$750,220.00
2. For such interest award as the Panel may deem appropriate.
3. For punitive damages, in an amount to be determined by the Panel.
4. For all costs, expenses and disbursements.
5. For the filing fee paid to the NASD and all of the forum fees advanced.
6. For such other and further relief as the Arbitration Panel deems just and proper.

During the evidentiary hearing, Claimant Barsion reduced his compensatory damage request to \$450,000.00 and requested a finding of entitlement to attorneys' fees.

Respondents requested that all claims be dismissed with prejudice and that Respondents be awarded all costs incurred in connection with this matter, reasonable attorneys' fees, and such other relief deemed just and proper by the Arbitration Panel.

OTHER ISSUES CONSIDERED AND DECIDED

On or about September 21, 2001, the arbitration panel issued an order which denied Respondents' Motion to Bifurcate.

At the evidentiary hearing, Claimants Burke informed the arbitration panel that they had dismissed, with prejudice, all claims against Respondents.

AWARD

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

Respondent Vogel is found liable on the claims of unsuitability and broker's negligence. Respondent Edwards is found liable on the claims of negligent supervision and vicarious liability. As such, Respondents are found liable, jointly and severally, and shall pay to Claimant Barsion the sum of \$287,000.00 plus interest at the rate of 10% per annum from May 1, 2002 until the date of payment of the Award.

Respondents are found liable, jointly and severally, and shall pay to Claimant Barsion his attorneys' fees in an amount to be determined by a court of competent jurisdiction. Attorneys' fees are awarded by operation of law and pursuant to the attorneys' fees provision on the account card.

Respondents are found liable, jointly and severally, and shall pay to Claimant Barsion costs in the sum of \$16,006.93, \$11,000.00 of which represents witness fees.

Respondents are found liable, jointly and severally, and shall pay to Claimant Barsion the sum of \$375.00 representing reimbursement of the claim filing fee previously paid by Claimants to NASD Dispute Resolution, Inc.

Any and all relief not specifically addressed herein, including punitive damages, is 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	= \$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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent Edwards is a party.

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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 Pre-hearing session with a single arbitrator @ \$450.00	= \$450.00
Pre-hearing conference: April 10, 2002 1 session	
One Pre-hearing session with Panel @ \$1,200.00	= \$1,200.00
Pre-hearing conference: September 21, 2001 1 session	
Fourteen Hearing sessions @ \$1,200.00	= \$16,800.00
Hearing Dates:	
April 22, 2002 2 sessions	
April 23, 2002 2 sessions	
April 24, 2002 2 sessions	
April 25, 2002 2 sessions	
April 29, 2002 2 sessions	
April 30, 2002 2 sessions	
May 1, 2002 2 sessions	
Total Forum Fees	= \$18,450.00

The Panel has assessed \$9,225.00 of the forum fees to Respondent Edwards and Respondent Vogel shall be jointly and severally liable with Respondent Edwards for this amount.

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Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimants be and hereby are jointly and severally solely liable for:

Initial Filing Fee	= \$375.00
Total Fees	= \$375.00

<u>Less payments</u>	= \$375.00
Balance Due NASD Dispute Resolution, Inc.	= \$0.00

Respondent Edwards be and hereby is solely liable for:

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

Respondents be and hereby are jointly and severally liable for:

Edwards' Forum Fees	= \$9,225.00
Vogel's Forum Fees	= \$9,225.00
Total Fees	= \$18,450.00
<u>Less payments</u>	= \$0.00
Balance Due NASD Dispute Resolution, Inc.	= \$18,450.00

All balances are payable to NASD Dispute Resolution, Inc. and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

<i>Lee C. Conser, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Russell W. Merriman, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Michael N. Gonatos</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/S/
 Lee C. Conser, Esq.
 Public Arbitrator, Presiding Chairperson

 Signature Date

/S/
 Russell W. Merriman, Esq.
 Public Arbitrator

 Signature Date

/S/
 Michael N. Gonatos
 Non-Public Arbitrator

 Signature Date

June 7, 2002
 Date of Service (For NASD Dispute Resolution office use only)

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Russell W. Merriman, Esq.
Michael N. Gonatos

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures



Lee C. Conser, Esq.
Public Arbitrator, Presiding Chairperson

June 6th 2002

Signature Date

Russell W. Merriman, Esq.
Public Arbitrator

Signature Date

Michael N. Gonatos
Non-Public Arbitrator

Signature Date

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Lee C. Conser, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Russell W. Merriman, Esq.
Public Arbitrator

6/6/02

Signature Date

Michael N. Gonatos
Non-Public Arbitrator

Signature Date

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Lee C. Conser, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Russell W. Merriman, Esq.
Public Arbitrator

Signature Date



Michael N. Gonatos
Non-Public Arbitrator

6-7-02

Signature Date

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