

**Award**  
**NASD Dispute Resolution**

---

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 01-02573

James Marcus Edwards

Name of the Respondents

Hearing Site: Raleigh, North Carolina

Donaldson Lufkin & Jenrette Securities,  
Christopher Moses Silver,  
Robert Fear, Jr., Gareth Evans,  
Maria L. Minguez, and  
Sands Brothers & Company, LTD

---

REPRESENTATION OF PARTIES

Claimant James Marcus Edwards, hereinafter referred to as "Claimant", was represented by Darren C. Blum, Esq., Law Offices of Darren C. Blum, Plantation, Florida.

Respondent Donaldson Lufkin & Jenrette Securities ("DLJ") was represented by Matthew Farley, Esq., Drinker Biddle & Reath, New York, New York.

Respondents Christopher Moses Silver ("Silver"), Gareth Evans ("Evans"), Maria L. Minguez ("Minguez"), and Sands Brothers & Company, LTD ("Sands Brothers") was represented by Richard A. Roth, Esq. Littman Krooks & Roth P.C., New York, New York.

Respondent Robert Fear, Jr. ("Fear") was initially represented by Richard A. Roth, Esq. Littman Krooks & Roth P.C., New York, New York, but later obtained new counsel of John Mancini, Esq., Leboeuf Lamb Greene & MacRae LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on May 1, 2001.

Claimant signed the Uniform Submission Agreement on May 7, 2001.

Statement of Answer filed by Respondent DLJ on August 20, 2001.

A representative of Respondent DLJ executed the Uniform Submission Agreement on August 16, 2001.

Statement of Answer filed by Respondents Sands Brothers, Silver, Fear, Evans, and Minguez on August 26, 2001.

Respondent Fear signed the Uniform Submission Agreement on September 6, 2001.

Respondent Minguez signed the Uniform Submission Agreement on September 6, 2001.

A representative of Respondent Sands Brothers executed the Uniform Submission Agreement on September 6, 2001.

Respondent Evans signed the Uniform Submission Agreement on September 6, 2001.  
Respondent Silver signed the Uniform Submission Agreement on September 6, 2001.

Respondent DLJ's Motion to Dismiss was filed on August 20, 2001.  
Claimant's Response to Respondent DLJ's Motion to Dismiss was filed on August 21, 2001.

Respondents Silver and Miguez's Motion to Dismiss was filed on August 26, 2001.  
Claimant's Response to Respondents Silver and Miguez's Motion to Dismiss was filed on September 17, 2001.

#### CASE SUMMARY

Claimant asserted the following causes of action, among others: violation of North Carolina Statutes 78A-36, 78A-56 and 78A-8; breach of contract; breach of fiduciary duties; negligence; negligent supervision; and sale of securities by unregistered persons. The causes of action relate to purchase and sale of various securities including Cisco Systems.

Unless specifically admitted in its Answer, Respondent DLJ denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to set forth a basis of recovery from Respondent DLJ that is recognized by law or equity; losses sustain by Claimant are the result of events and acts by persons over whom Respondent DLJ had no control or right to control; and, any losses were result of Claimant's own negligence.

Unless specifically admitted in their Answer, Respondents Sands Brothers, Silver, Fear, Evans, and Miguez denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; statute of limitations; ratifications; estoppel; waiver; laches; contributory negligence; any losses were the result of third party actions; failure to mitigate; and, Claimant authorized all transactions.

#### RELIEF REQUESTED

Claimant in his Statement of Claim requested:

Compensatory Damages	\$1,700,000.00
Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Rescission	

Respondent DLJ in its Statement of Answer requested that all claims be dismissed and that no costs be assessed against Respondent DLJ.

Respondents Sands Brothers, Silver, Fear, Evans, and Miguez in their Statement of Answer requested that the Statement of Claim be dismissed in its entirety, that they be awarded costs, disbursements and attorneys' fees, and such others and further relief as the NASD deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On February 26, 2002, the Panel denied Respondent DLJ's and Respondents Silver and Minguez's Motions to Dismiss.

Respondent Fear was dismissed from the proceeding prior to the hearing in this matter.

At the hearing, following the conclusion of Claimant's presentation of evidence, the following oral motions were made: Respondents Sands Brothers, Evans, Silver and Minguez moved to dismiss all claims against them; Respondent DLJ moved to dismiss all claims against it; and, Claimant moved for "summary judgment" in his favor on all claims. The Panel denied these motions.

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. All claims against Respondents are denied in their entirety;
2. The parties shall bear their respective costs, including attorney's fees, except as Fees are specifically addressed below; and,
3. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:  
Initial claim filing fee = \$ 500.00

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 person(s) at the time of the events giving rise to the dispute. Accordingly, Respondents DLJ and Sands Brothers are parties.

Respondent DLJ is assessed the following Member Fees:

Member surcharge	= \$ 2,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 4,500.00
Total Member Fees	= \$ 7,600.00

Respondent Sands Brothers is assessed the following Member Fees:

Member surcharge	= \$ 2,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 4,500.00
Total Member Fees	= \$ 7,600.00

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 (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00  
Pre-hearing conference: June 25, 2002 1 session

Two (2) Pre-hearing sessions with Panel @ \$1,200.00 = \$ 2,400.00  
Pre-hearing conferences: December 11, 2001 1 session  
January 22, 2002 1 session

Sixteen (16) Hearing sessions @ \$1,200.00 = \$19,200.00  
Hearing Dates: July 30, 2002 2 sessions  
July 31, 2002 2 sessions  
August 1, 2002 2 sessions  
March 3, 2003 2 sessions  
March 4, 2003 2 sessions  
March 5, 2003 2 sessions  
March 6, 2003 2 sessions  
March 7, 2003 2 sessions

Total Forum Fees = \$22,050.00

1. The Panel has assessed \$22,050.000 of the forum fees to Respondent Sands Brothers.

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.

1. Respondent DLJ requested copies of tapes = \$ 135.00  
2. Claimant requested copies of tapes = \$ 120.00

FEE SUMMARY

1. Claimant is assessed the following fees:

Initial Filing Fee	= \$ 500.00
<u>Administrative Costs</u>	= \$ 120.00
Total Fees	= \$ 620.00
<u>Less payments</u>	= \$ 1,700.00
Refund Owed Claimant	= \$ 1,080.00

2. Respondent DLJ is assessed the following fees:

Member Fees	= \$ 7,600.00
<u>Administrative Costs</u>	= \$ 135.00
Total Fees	= \$ 7,735.00
<u>Less payments</u>	= \$ 7,600.00
Balance Due NASD Dispute Resolution	= \$ 135.00

3. Respondent Sands Brothers is assessed the following fees:

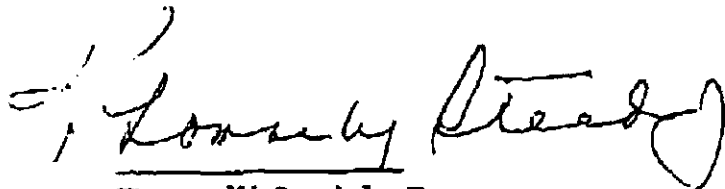
Member Fees	= \$ 7,600.00
<u>Forum Fees</u>	= \$22,050.00
Total Fees	= \$29,650.00
<u>Less payments</u>	= \$ 7,600.00
Balance Due NASD Dispute Resolution	= \$22,050.00

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

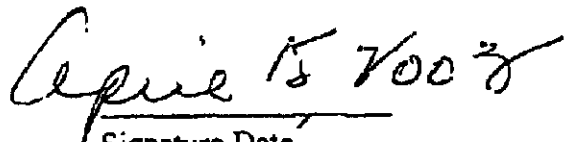
ARBITRATION PANEL

Thomas W. Steed, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
George Szontagh	-	Public Arbitrator, Panelist
James W. A. Black	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Thomas W. Steed, Jr., Esq.  
Public Arbitrator, Presiding Chairperson



Signature Date

George Szontagh  
Public Arbitrator, Panelist

Signature Date

James W. A. Black  
Non-Public Arbitrator, Panelist

Signature Date

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

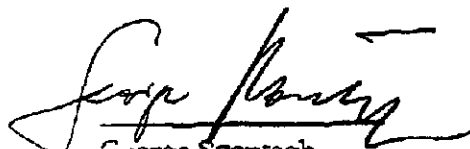
Arbitration No. 01-02573

Award Page 6

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Thomas W. Steed, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

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

  
\_\_\_\_\_  
George Szontagh  
Public Arbitrator, Panelist

4.10.2003  
Signature Date

\_\_\_\_\_  
James W. A. Black  
Non-Public Arbitrator, Panelist

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

April 17, 2003  
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution office use only)

Arbitration No. 01-02573

Award Page 6

Concurring Arbitrators' Signatures


\_\_\_\_\_  
Thomas W. Steed, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
George Szontagh  
Public Arbitrator, Panelist

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

  
James W. A. Black  
Non-Public Arbitrator, Panelist

  
Signature Date

April 17, 2003  
Date of Service (For NASD Dispute Resolution office use only)