

Revised Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 01-06177

A. G. Edwards & Sons, Inc.

Name of the Respondent

Hearing Site: Richmond, Virginia

Robert Kopstein

REPRESENTATION OF PARTIES

Claimant A.G. Edwards & Sons, Inc., hereinafter referred to as "Claimant", was represented by Joseph A. Ingrisano, Esq., Kutak Rock LLP, Washington, D.C.

Respondent Robert Kopstein, hereinafter referred to as "Respondent", was initially represented by Brian N. Smiley, Page Gard Smiley & Bishop, LLP, Atlanta, Georgia. Mr. Smiley and his firm withdrew as counsel for Respondent on November 12, 2002. Respondent did not appear at the hearing.

CASE INFORMATION

Statement of Claim filed on November 15, 2001.

A representative of Claimant signed the Uniform Submission Agreement on November 13, 2001.

Statement of Answer filed by Respondent on January 21, 2001.

Respondent signed the Uniform Submission Agreement on January 19, 2001.

CASE SUMMARY

Claimant asserted the following causes of action, among others: breach of contract; open account; account stated; fraud; intentional concealment; and, negligent misrepresentation. The causes of action relate to Respondent's alleged failure to pay Claimant funds owed it pursuant to its contract with Respondent.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief can be granted; unclean hands; estoppel; ratification; waiver; Claimant's negligence exceeded any of that which may be attributed to Respondent; any losses were the result of Claimant's actions; and, risk of loss.

RELIEF REQUESTED

Claimant in its Statement of Claim requested:

Compensatory Damages	\$37,142,502.00
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondent in his Statement of Answer requested that Claimant's claims be denied, that the Statement of Claim be dismissed, with all fees, expenses, and costs cast upon Claimant and in favor of Respondent.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimant, the undersigned Panel determined that Respondent had been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code"). Attached as Exhibit A please find notice of the hearing date and confirmation of Respondent's receipt of said notice.

AWARD

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

1. Respondent is liable on all counts of the Statement of Claim and shall pay Claimant compensatory damages in the amount of \$35,088,449.11, plus simple interest at a rate of 3% per annum from the date this Award is served until the date of payment in full;
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 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 = \$ 5,000.00

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, Claimant is a party.

Member surcharge	= \$ 3,600.00
Pre-hearing process fee	= \$ 600.00
<u>Hearing process fee</u>	<u>= \$ 5,000.00</u>
Total Member Fees	= \$ 9,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

December 10-13, 2002 adjournment by Respondent	= \$ 1,200.00
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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 Panel @ \$1,200.00	= \$ 1,200.00
Pre-hearing conference: June 3, 2002 1 session	

One (1) Hearing session @ \$1,200.00	= \$ 1,200.00
<u>Hearing Date: June 2, 2003 1 session</u>	

Total Forum Fees	= \$ 2,400.00
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1. The Panel has assessed \$1,200.00 of the forum fees to Claimant.
2. The Panel has assessed \$1,200.00 of the forum fees to Respondent.

FEE SUMMARY

1. Claimant is assessed the following fees:

Initial Filing Fee	= \$ 5,000.00
Member Fees	= \$ 9,200.00
<u>Forum Fees</u>	<u>= \$ 1,200.00</u>
Total Fees	= \$15,400.00
<u>Less payments</u>	<u>= \$15,400.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Respondent is assessed the following fees:

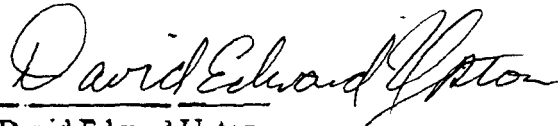
Adjournment Fee	= \$ 1,200.00
<u>Forum Fees</u>	<u>= \$ 1,200.00</u>
Total Fees	= \$ 2,400.00
<u>Less payments</u>	<u>= \$ 1,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,200.00

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

ARBITRATION PANEL

David Edward Upton	-	Public Arbitrator, Presiding Chairperson
Henry G. Plaster	-	Public Arbitrator, Panelist
Wayne J. Thaemert	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



David Edward Upton
Public Arbitrator, Presiding Chairperson

Signature Date

Henry G. Plaster
Public Arbitrator, Panelist

Signature Date

Wayne J. Thamer
Non-Public Arbitrator, Panelist

Signature Date

January 12, 2004
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

David Edward Upton
Public Arbitrator, Presiding Chairperson

Signature Date

Henry G. Plaster
Henry G. Plaster
Public Arbitrator, Panelist

12/17/03
Signature Date

Wayne J. Thamer
Non-Public Arbitrator, Panelist

Signature Date

January 12 2004
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

David Edward Upton
Public Arbitrator, Presiding Chairperson

Signature Date

Henry G. Plaster
Public Arbitrator, Panelist

Signature Date

Wayne J. Thiemert
Wayne J. Thiemert
Non-Public Arbitrator, Panelist

12-29-03
Signature Date

January 12, 2004
Date of Service (For NASD Dispute Resolution office use only)