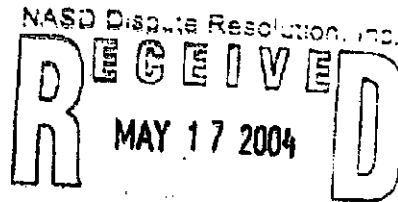


AWARD  
NASD Dispute Resolution



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In the Matter of the Arbitration Between

Name of Claimants

Edward & Joan Sarlo, Individually and as  
Trustees of the Edward & Joan Sarlo Revocable Trust

and

02-04665  
Phoenix, Arizona

Name of Respondents

A.G. Edwards & Sons, Inc.  
John L. Tate

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Nature of the Dispute: Customer vs. Member and Associated Person

**REPRESENTATION OF PARTIES**

Edward & Joan Sarlo, Individually and as Trustees of the Edward & Joan Sarlo Revocable Trust ("Claimants") were represented by Robert D. Mitchell, Esq., Mitchell Law Offices, P.C., Phoenix, Arizona.

A.G. Edwards & Sons, Inc. ("Respondent AG Edwards") and John L. Tate ("Respondent Tate") were represented by David M. Minnick, Esq., A.G. Edwards & Sons, Inc., St. Louis, Missouri.

**CASE INFORMATION**

The Statement of Claim was filed on or about August 8, 2002. Submission Agreement of Claimant Edward & Joan Sarlo, Individually and as Trustees of the Edward & Joan Sarlo Revocable Trust was signed on August 7, 2002.

Statement of Answer of Respondents A.G. Edwards & Sons, Inc. and John L. Tate was filed on or about October 4, 2002. Submission Agreement of Respondent A.G. Edwards & Sons, Inc. was signed on October 1, 2002 by Stephen G. Sneeringer. Submission Agreement of Respondent John L. Tate was signed on September 25, 2002.

**CASE SUMMARY**

Claimants submitted the following summary:

The Claimants Edward and Joan Sarlo alleged that the Respondents A.G. Edwards & Sons,

Inc. and John L. Tate were negligent, breached their fiduciary duty, and violated other applicable statutory and common law in connection with their trust account and two IRA accounts maintained with the Respondents between approximately July of 1998 and February of 2002 by (i) providing the Respondents with unsuitable investment advice, (ii) failing to prudently diversify the Claimants' accounts; (iii) failing to accurately and fully apprise the clients of applicable risks associated with activity in the accounts and of other pertinent material information concerning the investments; (iv) not supervising the accounts for suitability and conformance of the investment activity in accounts with client objectives and the information on file regarding investment objectives; and (v) failing to duty to know customer and otherwise discharge statutory and common law duties to client in connection with mishandling of the Sarlos' trust and IRA accounts.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated:

While Tate attempted to direct the Sarlos in the direction of diversification, the Sarlos chose their own course and understood the risks which they were taking. Their losses are the direct and proximate result of their own investment decisions, and not the fault or responsibility of the Respondents. Indeed, had Tate's suggestion to diversify into the other stocks not been followed by the Sarlos, it is possible that their losses would have been even greater. The Sarlos were knowledgeable, attentive investors who sought to invest heavily in Intel, and spent money in excess of their income while utilizing margin and options to attempt to achieve their investment objectives.

#### **RELIEF REQUESTED**

In the Statement of Claim, Claimants requested an award as follows:

- A. Compensatory damages for the losses in their portfolio of more than \$1,000,000.00.
- B. Interest and/or lost opportunity damages as of the date of the arbitration hearing.
- C. Recovery of the commissions, margin interest, and other fees charged by the Respondents on Claimants' investments.
- D. Recovery of Claimants' filing fees and such other costs and expenses as may be incurred in bringing this arbitration.
- E. Attorney's fees pursuant to A.R.S. §§12-341.01 and 44-2001.
- F. Punitive damages in an amount not less than \$1,000,000.00.
- G. Such other relief in favor of the Claimants as the Arbitrators deem just and appropriate under the circumstances.

Respondents requested that the Statement of Claim be dismissed in its entirety and that the Respondents be awarded their costs and expenses incurred in defending this action, including

reasonable attorney's fees, and that the panel enter an order that all references to this claim be expunged from Respondent Tate's permanent records with the Central Registration Depository.

### **OTHER ISSUES CONSIDERED & DECIDED**

After the conclusion of the hearing dates conducted in November, 2003, Claimants requested that Arbitrator Parker recuse himself from the Panel. Mr. Parker, after considering the submissions of the parties, decided not to recuse himself from the Panel.

At the conclusion of the Claimants' case in chief, Respondents asserted a Motion to Dismiss all causes of action. After considering the pleadings, the evidence presented and the arguments of the parties, the undersigned Arbitrators denied the Motion.

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 (the "NASD").

### **AWARD**

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

1. The claims asserted in this matter shall be and hereby are dismissed in their entirety.
2. That to the extent not specifically awarded or otherwise provided for above, all claims and requests for relief by any party hereto are denied with prejudice.
3. 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 attorneys fees.

### **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 firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm(s) is A.G. Edwards & Sons, Inc.

Member surcharge	\$	2,800.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	5,000.00
Total Member Fees	\$	8,550.00

### **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:

1	Pre-hearing session(s) with Panel	x	1,200.00	\$	1,200.00
	March 5, 2003	1 session			
13	Hearing sessions	x	1,200.00	\$	15,600.00
	November 3, 2003	2 sessions			
	November 4, 2003	2 sessions			
	November 5, 2003	2 sessions			
	November 6, 2003	2 sessions			
	November 7, 2003	1 session			
	April 27, 2004	2 sessions			
	April 28, 2004	2 sessions			
	Total Forum Fees		\$	16,800.00	

The Arbitration Panel has assessed \$8,400.00 of the forum fees to Edward & Joan Sarlo, Individually and as Trustees of the Edward & Joan Sarlo Revocable Trust.

The Arbitration Panel has assessed \$8,400.00 of the forum fees jointly and severally to A.G. Edwards & Sons, Inc. and John L. Tate.

### **Fee Summary**

Claimants, Edward & Joan Sarlo, Individually and as Trustees of the Edward & Joan Sarlo Revocable Trust shall be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$	500.00
<u>Forum Fees</u>	= \$	8,400.00
Total Fees	= \$	8,900.00
<u>Less payments</u>	= \$	-1,700.00
Balance Due NASD Dispute Resolution	= \$	7,200.00

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

Member Fees	= \$	8,550.00
Total Fees	= \$	8,550.00
<u>Less payments</u>	= \$	-8,550.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, A.G. Edwards & Sons, Inc., and John L. Tate, shall be and hereby are jointly and severally liable for:

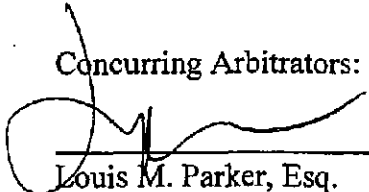
<u>Forum Fees</u>	= \$	8,400.00
Total Fees	= \$	8,400.00
<u>Less payments</u>	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	8,400.00

All balances are due to NASD Dispute Resolution

**ARBITRATION PANEL**

Louis M. Parker, Esq. - Public Arbitrator, Presiding Chair  
Henry L. Dahl, Jr. - Public Arbitrator  
Thomas D. Tays, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

  
\_\_\_\_\_  
Louis M. Parker, Esq.  
Public Arbitrator, Presiding Chair

5/10/04  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Henry L. Dahl, Jr.  
Public Arbitrator

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

\_\_\_\_\_  
Thomas D. Tays, Esq.  
Non-Public Arbitrator

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

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Balance Due NASD Dispute Resolution	= \$	7,200.00

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

Member Fees	= \$	8,550.00
Total Fees	= \$	8,550.00
<u>Less payments</u>	= \$	-8,550.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, A.G. Edwards & Sons, Inc., and John L. Tate, shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	8,400.00
Total Fees	= \$	8,400.00
<u>Less payments</u>	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	8,400.00

All balances are due to NASD Dispute Resolution

**ARBITRATION PANEL**

Louis M. Parker, Esq. - Public Arbitrator, Presiding Chair  
Henry L. Dahl, Jr. - Public Arbitrator  
Thomas D. Tays, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

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Louis M. Parker, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

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Henry L. Dahl, Jr.  
Public Arbitrator

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

  
\_\_\_\_\_  
Thomas D. Tays, Esq.  
Non-Public Arbitrator

5/10/04  
\_\_\_\_\_  
Signature Date

NASD Dispute Resolution, Inc.  
Arbitration No. 02-04665  
Award

ARBITRATION PANEL

Louis M. Parker, Esq. - Public Arbitrator, Presiding Chair  
Henry L. Dahl, Jr. - Public Arbitrator  
Thomas D. Tays, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

Louis M. Parker, Esq.  
Public Arbitrator, Presiding Chair

Signature Date

Henry L. Dahl, Jr.  
Public Arbitrator

*Henry L. Dahl, Jr. April 30, 2004*  
Signature Date

Thomas D. Tays, Esq.  
Non-Public Arbitrator

Signature Date

5/18/04  
Date of Service