

**Award  
NASD Dispute Resolution**

---

**In the Matter of the Arbitration Between:**

**Name of the Claimants**

**Case Number:** 02-04732

Patricia J. Pequignot IRA

Patricia J. Pequignot & William A. Pequignot, JT Ten

The Furniture Warehouse, Inc.

**Name of the Respondents**

**Hearing Site:** Washington, DC

Robert Ashley Early

A.G. Edwards & Sons, Inc.

---

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

**REPRESENTATION OF PARTIES**

Claimants, Patricia J. Pequignot IRA, Patricia J. Pequignot and William A. Pequignot (the "Pequignots") and The Furniture Warehouse, Inc. ("TFW"), hereinafter collectively referred to as "Claimants", were represented by Todd C. Rhea, Esq., Clark & Bradshaw, P.C., Harrisonburg, Virginia.

Respondents, Robert Ashley Early ("Early") and A.G. Edwards & Sons, Inc. ("A.G. Edwards"), hereinafter collectively referred to as "Respondents", were represented by Matthew Salomon, Esq., in-house counsel for A.G. Edwards, St. Louis, Missouri.

**CASE INFORMATION**

Statement of Claim filed on August 9, 2002.

The Pequignots signed the Uniform Submission Agreement on August 7, 2002.

An officer of TFW signed the Uniform Submission Agreement on behalf of the company on August 7, 2002.

Joint Statement of Answer filed by Respondents on October 21, 2002.

Respondent, Early, signed the Uniform Submission Agreement on September 30, 2002.

A representative of A.G. Edwards signed the Uniform Submission Agreement on September 11, 2002.

**CASE SUMMARY**

Claimants asserted the following causes of action, among others: suitability; failure to supervise;

and, churning. The causes of action relate to the purchase and sale of various securities, including Putnam Voyager Class B Fund; New e-conomy Select Portfolio, Series 2; Cisco Systems and EMC; and, NASDAQ Target 15 Portfolio April 2000 Series UIT.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: that Claimants failure to mitigate any alleged damages; that Claimants are barred from recovering from Respondents under the doctrines of estoppel, waiver and laches; assumption of risk; and, that Claimant is barred from recovering from Respondents under Section 8-319 of the Uniform Commercial Code of Virginia.

### **RELIEF REQUESTED**

Claimants requested:

Compensatory Damages	\$98,063.56
Interest	\$24.52 <i>per diem</i> from 5/20/02
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

In their Statement of Answer, Respondents requested that all claims be dismissed in their entirety; that hearing costs be assessed against the Claimants; and, that Respondent Early's Central Registration Depository ("CRD") record be expunged.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten signed award must be entered.

### **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. That all claims against Respondents are denied in their entirety;
2. That each party 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 = \$ 225.00

#### **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. Accordingly, A.G. Edwards is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

#### **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:

Three (3) Pre-hearing sessions with Panel @ \$750.00 = \$2,250.00

Pre-hearing conferences:      March 24, 2003      1 session  
   September 24, 2003 1 session  
   September 30, 2003 1 session

Four (4) Hearing sessions @ \$750.00 = \$3,000.00

Hearing Dates      October 9, 2003      2 sessions  
                                 October 10, 2003      2 sessions

---

Total Forum Fees = \$5,250.00

1. The Panel has assessed \$3,500.00 of the forum fees to Respondent A.G. Edwards.
2. The Panel has assessed \$1,750.00 of the forum fees to Respondent Early.

### **Fee Summary**

**Fee Summary**

1. Claimant is assessed and shall pay:

<u>Initial Filing Fee</u>	= \$ 225.00
<u>Total Fees</u>	= \$ 225.00
<u>Less payments</u>	= \$ 975.00
<u>Refund Due to Claimant</u>	= \$ 750.00
  
2. Respondent A.G. Edwards is assessed and shall pay:

<u>Member Fees</u>	= \$ 3,550.00
<u>Forum Fees</u>	= \$ 3,500.00
<u>Total Fees</u>	= \$ 7,050.00
<u>Less payments</u>	= \$ 3,550.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 3,500.00
  
3. Respondent Early is assessed and shall pay:

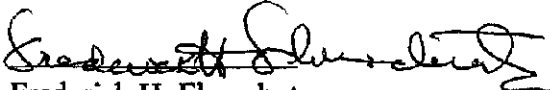
<u>Forum Fees</u>	= \$1,750.00
<u>Total Fees</u>	= \$1,750.00
<u>Less payments</u>	= \$ 00.00
<u>Balance Due NASD Dispute Resolution</u>	= \$1,750.00

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

**ARBITRATION PANEL**

Frederick H. Florschutz	-	Public Arbitrator, Presiding Chairperson
Sheila D. Collins	-	Public Arbitrator, Panelist
Wendie L. Wachtel	-	Non-Public Arbitrator, Panelist

**Concurring Arbitrators' Signatures**

  
Frederick H. Florschutz  
Public Arbitrator, Presiding Chairperson

10/30/03  
Signature Date

\_\_\_\_\_  
Sheila D. Collins  
Public Arbitrator, Panelist

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

\_\_\_\_\_  
Wendie L. Wachtel  
Non-Public Arbitrator, Panelist

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

10/31/03  
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution  
Arbitration No. 02-04732  
Award Page 5

**Concurring Arbitrators' Signatures**

Frederick H. Florschutz  
Public Arbitrator, Presiding Chairperson

Signature Date



Sheila D. Collins  
Public Arbitrator, Panelist

10/22/03  
Signature Date

(Wendie L. Wachtel  
Non-Public Arbitrator, Panelist

Signature Date

10/31/03  
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution  
Arbitration No. 02-04732  
Award Page 5

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Frederick H. Florschutz  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Sheila D. Collins  
Public Arbitrator, Panelist

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

Wendie L. Wachtel

(Wendie L. Wachtel  
Non-Public Arbitrator, Panelist

10/27/03  
Signature Date

10/31/03  
Date of Service (For NASD Dispute Resolution office use only)