

**STIPULATED AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Marco A. Grijalva, and Rose M Grijalva, individually and as Trustees  
of the Grijala Family Trust

and

02-05888  
Phoenix, Arizona

Name of Respondents

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

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

**REPRESENTATION OF PARTIES**

Marco A. Grijalva, and Rose M Grijalva, individually and as Trustees of the Grijala Family Trust ("**Claimants**") were represented by Paul J. Roshka, Jr., Esq., Roshka Heyman & DeWulf, Phoenix, Arizona and Alan S. Baskin, Esq., Bade & Baskin, PLC, Tempe, Arizona.

A.G. Edwards & Sons, Inc. ("**Respondent AG Edwards**") and John L. Tate ("**Respondent Tate**") hereinafter referred to as ("**Respondents**") were represented by Keith Beauchamp, Esq., Lewis and Roca LLP, Phoenix, Arizona.

**CASE INFORMATION**

The Statement of Claim was filed on or about October 2, 2002. Submission Agreement of Claimant Marco A. Grijalva, and Rose M Grijalva, individually and as Trustees of the Grijala Family Trust was signed on October 1, 2002.

Statement of Answer was filed by Respondents A.G. Edwards & Sons, Inc. and John L. Tate on or about November 29, 2002. Submission Agreement of Respondent A.G. Edwards & Sons, Inc. was signed on November 25, 2002. Submission Agreement of Respondent John L. Tate was signed on November 1, 2002.

**CASE SUMMARY**

Claimants asserted, among other things, that their account was inappropriately concentrated in Intel stock and that Mr. Tate made unsuitable recommendations with regard to the trading of options.

Claimants asserted the following causes of action: common law fraud, federal and state securities fraud, breach of fiduciary duty, violation of NASD conduct rules, negligent misrepresentation, negligent supervision and breach of contract.

Respondents denied all allegations of wrongdoing. Respondents contend that Claimants directed and were fully aware of the trading in their account, and that all recommendations were suitable.

### **RELIEF REQUESTED**

Claimant requested total damages of \$23,000,000.00 plus punitive damages, attorneys fees, costs and other remedies.

Respondents requested dismissal of the Statement of Claim in its entirety, an award of attorneys' fees and costs, and expungement of this claim from the CRD record of John Tate.

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

The parties advised NASD Dispute Resolution that they entered into an agreement to settle this matter on certain terms and conditions set forth in a confidential settlement agreement.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies. 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 and the stipulation of the parties, but without making any findings of fact or conclusions of law, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination and find as follows:

1. Pursuant to the terms of the settlement agreement between the parties, all claims asserted in this matter are dismissed with prejudice.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent John L. Tate's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent John L. Tate must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

3. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
4. 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, not specifically awarded or otherwise provided for above.

### **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 = \$600.00

#### **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(are) A.G. Edwards & Sons, Inc..

Member surcharge	\$	3,750.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	5,500.00
Total Member Fees	\$	10,000.00

#### **Adjournment Fees**

Adjournments requested during these proceedings:

Hearing Date(s), March 8-12, 15-19, 2004 adjournment requested by Claimants = \$1,200.00

#### **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 a single arbitrator	x	\$450.00	\$	450.00
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	January 28, 2004	1	session		
2 Pre-hearing session(s) with Panel		x	1,200.00	\$	2,400.00
	May 5, 2003	1	session		
	February 5, 2004	1	session		
Total Forum Fees				\$	<u>2,850.00</u>

The Arbitration Panel has assessed \$1,650.00 of the forum fees to Marco A. Grijalva, and Rose M Grijalva, individually and as Trustees of the Grijala Family Trust.

The Arbitration Panel has assessed \$1,200.00 of the forum fees jointly and severally to A.G. Edwards & Sons, Inc. and John L. Tate.

**Fee Summary**

Claimants, Marco A. Grijalva, and Rose M Grijalva, individually and as Trustees of the Grijala Family Trust shall be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$	600.00
Adjournment Fee	= \$	1,200.00
<u>Forum Fees</u>	= \$	<u>1,650.00</u>
Total Fees	= \$	3,450.00
<u>Less payments</u>	= \$	<u>-1,800.00</u>
Balance Due NASD Dispute Resolution	= \$	1,650.00

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

Member Fees	= \$	10,000.00
Total Fees	= \$	10,000.00
<u>Less payments</u>	= \$	<u>-10,000.00</u>
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>	= \$	<u>1,200.00</u>
Total Fees	= \$	1,200.00
<u>Less payments</u>	= \$	<u>-0.00</u>
Balance Due NASD Dispute Resolution	= \$	1,200.00

**All balances are due to NASD Dispute Resolution**

**ARBITRATION PANEL**

Marc Kalish - Public Arbitrator, Presiding Chair  
Robert S. Mautner, Esq. - Public Arbitrator  
Dan B. Williams - Non-Public Arbitrator

*Concurring Arbitrators:*

/s/ Marc Kalish  
Marc Kalish  
Public Arbitrator, Presiding Chair

February 24, 2005  
Signature Date

/s/ Robert S. Mautner  
Robert S. Mautner, Esq.  
Public Arbitrator

February 24, 2005  
Signature Date

/s/ Dan B. Williams  
Dan B. Williams  
Non-Public Arbitrator

February 28, 2005  
Signature Date

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Date of Service (For NASD office use only)

NASD Dispute Resolution  
Arbitration No. 02-05888  
Stipulated Award Page 5 of 5

**ARBITRATION PANEL**

Marc Kalish - Public Arbitrator, Presiding Chair  
Robert S. Mautner, Esq. - Public Arbitrator  
Dan B. Williams - Non-Public Arbitrator

Concurring Arbitrators:

  
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Marc Kalish  
Public Arbitrator, Presiding Chair

2/24/05  
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Signature Date

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Robert S. Mautner, Esq.  
Public Arbitrator

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

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Dan B. Williams  
Non-Public Arbitrator

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Arbitration No. 02-05883  
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**ARBITRATION PANEL**

Marc Kalish - Public Arbitrator, Presiding Chair  
Robert S. Mautner, Esq. - Public Arbitrator  
Dan B. Williams - Non-Public Arbitrator

**Concurring Arbitrators:**

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Marc Kalish  
Public Arbitrator, Presiding Chair

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

Robert S. Mautner, Esq.  
Robert S. Mautner, Esq.  
Public Arbitrator

Feb. 24, 2005  
Signature Date

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Dan B. Williams  
Non-Public Arbitrator

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NASD Dispute Resolution  
Arbitration No. 02-05888  
Stipulated Award Page 5 of 5

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Dan B. Williams - Non-Public Arbitrator

Concurring Arbitrators:

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Marc Kalish  
Public Arbitrator, Presiding Chair

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Signature Date

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Robert S. Mautner, Esq.  
Public Arbitrator

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Signature Date



2 - 28 - 05

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Dan B. Williams  
Non-Public Arbitrator

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Signature Date

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Date of Service (For NASD office use only)