
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Richard Lee Small

Marlene L. London

Richard Lee Small and Marlene L. London

Case Number: 02-06624

Names of the Respondents

A.G. Edwards & Sons, Inc.

Robert W. Baird & Co. Incorporated

Hearing Site: Orlando, Florida

Nature of the Dispute: Customers vs. Members.

REPRESENTATION OF PARTIES

For Richard Lee Small, Marlene L. London, and Richard Lee Small and Marlene L. London, collectively referred to as "Claimants": Charles M. Thompson, Esq., Charles M. Thompson & Associates, P.C., Birmingham, Alabama. On or about May 14, 2003, Lawrence H. Collins, Esq., Law Offices of Horwitz and Fussell, P.A., Orlando, Florida, appeared as co-counsel for Claimants. On or about November 25, 2003, Lonnie K. Martens, Esq., The Martens Law Firm, Tequesta, Florida, appeared as co-counsel for Claimants.

For A.G. Edwards & Sons, Inc., referred to as "Respondent A.G. Edwards": Clay L. Grumke, Vice President and Litigation Counsel with Respondent A.G. Edwards, St. Louis, Missouri.

For Robert W. Baird & Co. Incorporated, referred to as "Respondent Baird": David A. Baugh, Esq., James O. Williams, Jr., Esq. and Martin Q. Ryan, Esq., Mora, Baught, Williams & Unger, Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: October 31, 2002.

First Amended Statement of Claim filed on or about: June 11, 2003.

Claimants signed Uniform Submission Agreements on: November 11, 2002.

Motion to Dismiss, Answering Statement and Affirmative Defenses filed by Respondent Baird on or about: January 10, 2003.

Statement of Answer and Counterclaim filed by Respondent A.G. Edwards on or about: January 13, 2003.

Claimants' Reply to Counterclaim filed on or about: January 21, 2003.

Claimants' Response to Respondent Baird's Motion to Dismiss filed on or about: May 13, 2003.

Respondent Baird's Motion to Dismiss filed on or about: October 27, 2003.

Respondent A.G. Edwards' Motion to Dismiss filed on or about: November 11, 2003.

Claimants' Response to Respondent Baird's Motion to Dismiss filed on or about: November 11, 2003.

Claimants' Renewal of the Attached Response to the Motion to Dismiss filed on or about: December 4, 2003.

Respondent Baird signed the Uniform Submission Agreement on: December 9, 2002.

Respondent A.G. Edwards signed the Uniform Submission Agreement on: January 13, 2003.

CASE SUMMARY

Claimants alleged the following causes of action: 1) fraud; 2) breach of fiduciary duty; 3) failure to supervise; 4) failure to diversify; 5) failure to execute; 6) violation of federal and state securities laws; and 7) violation of NASD Rules of Fair Practice and NYSE Rules. The causes of action relate to the exercise of stock options in Veritas Software Corp. on margin.

Respondents A.G. Edwards and Baird denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimants requested: 1) compensatory damages in the amount of \$250,000.00 as to Respondent Baird; 2) compensatory damages in the amount of \$1,000,000.00 as to Respondent A.G. Edwards; 3) consequential damages in an amount according to proof; 4) disgorgement and retention of all earnings, profits, compensation, and benefits received by Respondents as a result of their unlawful acts and practices in an amount according to proof; 5) rescission of all monies and other compensation paid or given by Claimants to Respondents; 6) the lost opportunity of what Claimants' investment funds would have earned if suitably invested; 7) costs; 8) attorneys' fees; 9) pre-judgment and post-judgment interest at the legal applicable rate; 9) punitive damages in an amount according to proof; and 10) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondent A.G. Edwards requested: 1) dismissal of the Statement of Claim in its entirety; 2) costs; and 3) such other relief the Panel deemed just and proper.

Respondent Baird requested: 1) dismissal of the Statement of Claim in its entirety; 2) costs and fees; and 3) such other relief the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about December 23, 2003, the Panel denied Respondents Baird and A.G. Edwards' motions to dismiss.

At the commencement of the evidentiary hearing, Claimants announced that they had reached a settlement with Respondent Baird. After one full day of hearing, the Claimants announced that they had reached a settlement with Respondent A.G. Edwards. The Panel, having duly considered the representation of the parties and the record in this proceeding, ordered the dismissal with prejudice of the above-captioned arbitration proceeding.

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

AWARD

After considering the representation of the parties and the record in this proceeding, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims are dismissed with prejudice.
2. The parties shall bear their respective costs.
3. Any and all claims or relief not specifically addressed herein are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

NASD 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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Respondents A.G. Edwards and Baird are member firms and parties.

Member surcharge = \$2,250.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent

injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

There were no injunctive relief fees assessed during these proceedings.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel @ \$1,200.00 per session	= \$2,400.00
Pre-hearing conferences: May 16, 2003	1 session
December 23, 2003	1 session

Three (3) Hearing sessions @ \$1,200.00 per session	= \$3,600.00
Hearing Dates: January 13, 2004	2 sessions
January 14, 2004	1 session

Total Forum Fees	= \$6,000.00
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Pursuant to the agreement of the parties, the Panel has assessed forum fees for the hearing sessions in the amount of \$3,600.00 to Respondent A.G. Edwards.

The Panel has assessed forum fees for the pre-hearing sessions in the amount of \$800.00 jointly and severally to Claimants.

The Panel has assessed forum fees for the pre-hearing sessions in the amount of \$800.00 to Respondent A.G. Edwards.

The Panel has assessed forum fees for the pre-hearing sessions in the amount of \$800.00 to Respondent Baird.

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.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Retained Hearing Session Deposit per Rule 10332(f) of the Code	= \$ 400.00
<u>Forum Fees</u>	= \$ 800.00
Total Fees	= \$1,700.00

<u>Less payments</u>	= \$1,700.00
Balance Due NASD	= \$ 0.00

Respondent A.G. Edwards is solely liable for:

Member Fees	= \$ 7,000.00
<u>Forum Fees</u>	= \$ 4,400.00
Total Fees	= \$11,400.00
<u>Less payments</u>	= \$ 7,000.00
Balance Due NASD	= \$ 4,400.00

Respondent Baird is solely liable for:

Member Fees	= \$7,000.00
<u>Forum Fees</u>	= \$ 800.00
Total Fees	= \$7,800.00
<u>Less payments</u>	= \$7,000.00
Balance Due NASD	= \$ 800.00

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

ARBITRATION PANEL

<i>Donald J. Spero, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Kitty G. Grubb, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Herbert Schwartz</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

<u>/s/</u>	<u>January 31, 2004</u>
Donald J. Spero, Esq.	Signature Date
Public Arbitrator, Presiding Chairperson	

<u>/s/</u>	<u>January 28, 2004</u>
Kitty G. Grubb, Esq.	Signature Date
Public Arbitrator	

<u>/s/</u>	<u>January 28, 2004</u>
Herbert Schwartz	Signature Date
Non-Public Arbitrator	

February 3, 2004
Date of Service (For NASD use only)

<u>Less payments</u>	= \$1,700.00
Balance Due NASD	= \$ 0.00

Respondent A.G. Edwards is solely liable for:

Member Fees	= \$ 7,000.00
<u>Forum Fees</u>	= \$ 4,400.00
Total Fees	= \$11,400.00
<u>Less payments</u>	= \$ 7,000.00
Balance Due NASD	= \$ 4,400.00

Respondent Baird is solely liable for:

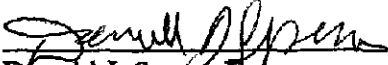
Member Fees	= \$7,000.00
<u>Forum Fees</u>	= \$ 800.00
Total Fees	= \$7,800.00
<u>Less payments</u>	= \$7,000.00
Balance Due NASD	= \$ 800.00

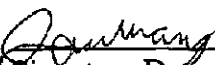
All balances are payable to NASD and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Donald J. Spero, Esq.	-	Public Arbitrator, Presiding Chairperson
Kitty G. Grubb, Esq.	-	Public Arbitrator
Herbert Schwartz	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Donald J. Spero, Esq.
Public Arbitrator, Presiding Chairperson

 31, 2004
Signature Date

Kitty G. Grubb, Esq.
Public Arbitrator

Signature Date

Herbert Schwartz
Non-Public Arbitrator

Signature Date

Date of Service (For NASD use only)

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<u>Less payments</u>	= \$1,700.00
Balance Due NASD	= \$ 0.00

Respondent A.G. Edwards is solely liable for:

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 4,400.00
Total Fees	= \$11,400.00
<u>Less payments</u>	= \$ 7,000.00
Balance Due NASD	= \$ 4,400.00

Respondent Baird is solely liable for:

Member Fees	= \$7,000.00
Forum Fees	= \$ 800.00
Total Fees	= \$7,800.00
<u>Less payments</u>	= \$7,000.00
Balance Due NASD	= \$ 800.00

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

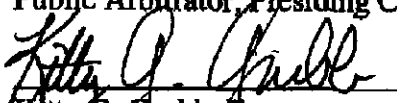
ARBITRATION PANEL

Donald J. Spero, Esq.	-	Public Arbitrator, Presiding Chairperson
Kitty G. Grubb, Esq.	-	Public Arbitrator
Herbert Schwartz	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Donald J. Spero, Esq.
 Public Arbitrator, Presiding Chairperson

Signature Date


 Kitty G. Grubb, Esq.
 Public Arbitrator


 Signature Date

Herbert Schwartz
 Non-Public Arbitrator

Signature Date

Date of Service (For NASD use only)

<u>Less payments</u>	= \$1,700.00
<u>Balance Due NASD</u>	= \$ 0.00

Respondent A.G. Edwards is solely liable for:

<u>Member Fees</u>	= \$ 7,000.00
<u>Forum Fees</u>	= \$ 4,400.00
<u>Total Fees</u>	= \$11,400.00
<u>Less payments</u>	= \$ 7,000.00
<u>Balance Due NASD</u>	= \$ 4,400.00

Respondent Baird is solely liable for:

<u>Member Fees</u>	= \$7,000.00
<u>Forum Fees</u>	= \$ 800.00
<u>Total Fees</u>	= \$7,800.00
<u>Less payments</u>	= \$7,000.00
<u>Balance Due NASD</u>	= \$ 800.00

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

ARBITRATION PANEL

<i>Donald J. Spero, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Kitty G. Grubb, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Herbert Schwartz</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Donald J. Spero, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Kitty G. Grubb, Esq.
Public Arbitrator

Signature Date


Herbert Schwartz
Non-Public Arbitrator

1/28/07
Signature Date

Date of Service (For NASD use only)