

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Dori Gilbert (Claimant) v. A.G. Edwards & Sons, Inc. and Fred Brickel (Respondents)

Case Number: 02-07779

Hearing Site: New York, New York

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

**REPRESENTATION OF PARTIES**

Claimant Dori Gilbert ("Gilbert") hereinafter referred to as "Claimant": Thomas J. Moran, Esq., Paramus, NJ.

Respondents A.G. Edwards & Sons, Inc. ("AGE") and Fred Brickel ("Brickel") hereinafter collectively referred to as "Respondents": Donna L. Levy, Esq., Davidson & Grannum, LLP, New York, NY. Previously represented by: Phyllis A. Hartrich, Esq., A.G. Edwards & Sons, Inc., St. Louis, MO.

**CASE INFORMATION**

Statement of Claim filed on or about: December 23, 2002.

Claimant signed the Uniform Submission Agreement: December 20, 2002.

Joint Statement of Answer filed by Respondents on or about: April 1, 2003.

Respondent AGE signed the Uniform Submission Agreement.

Respondent Brickel signed the Uniform Submission Agreement: February 27, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of fiduciary duty and unauthorized release of funds. Claimant's claim involved mutual funds.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim.

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$34,000.00, legal fees in the amount of \$500.00; interest; costs in the amount of \$600.00; and any and all other costs related to this proceeding.

Respondents requested that Claimant's claims be dismissed in their entirety; that Respondents be awarded their costs and reasonable attorneys' fees; and that the Panel enter an order granting expungement from Respondent Brickel's CRD Record of any mention of his joinder as a party to this matter.

### **AWARD**

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

1. Respondent AGE is solely liable for and shall pay to Claimant compensatory damages in the amount of \$5,475.00.
2. Respondent AGE is solely liable for and shall pay to Claimant the sum of \$175.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.
3. The Arbitrator recommends the expungement of all reference to the above captioned arbitration from Respondent Fred Brickel'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 Brickel must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
4. Any and all relief not specifically addressed herein is denied.

### **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	= \$175.00
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#### **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 & Sons, Inc. is a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00

**Forum Fees and Assessments**

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

One (1) Pre-hearing session with the sole arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: September 8, 2003 1 session	
Two (2) Hearing sessions @ \$450.00	= \$ 900.00
Hearing Date: May 26, 2004 2 sessions	
Total Forum Fees	= \$1,350.00

1. The Arbitrator has assessed \$1,350.00 of the forum fees against Respondent AGE.

**Fee Summary**

1. Claimant is solely liable for:	
Initial Filing Fee	= \$ 175.00
Total Fees	= \$ 175.00
Less payments	= \$ 625.00
Refund Due to Claimant	= \$ 450.00

*As stated in the "Award" section above, Respondent AGE is liable and shall reimburse Claimant for the \$175.00 filing fee.*

2. Respondent AGE is solely liable for:	
Member Fees	= \$2,625.00
Forum Fees	= \$1,350.00
Total Fees	= \$3,975.00
Less payments	= \$2,625.00
Balance Due NASD Dispute Resolution	= \$1,350.00

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

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ARBITRATOR

Khadijah B. Matin

Sole Public Arbitrator

Arbitrator's Signature

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument is which is my award.

Khadijah B. Matin  
Khadijah B. Matin  
Sole Public Arbitrator

June 10, 2004  
Signature Date

June 15, 2004  
Date of Service (For NASD Dispute Resolution use only)