

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

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In the Matter of the Arbitration Between:

Kermit C. Rudolph, Thomas F. Rudolph, and Stephen M. Rudolph (Claimants) v. A.G. Edwards & Sons, Inc. and Gary L. Sliemers (Respondents)

Case Number: 03-00165

Hearing Site: Cleveland, Ohio

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

**REPRESENTATION OF PARTIES**

Claimants Kermit C. Rudolph ("K. Rudolph"), Thomas F. Rudolph ("T. Rudolph"), and Stephen M. Rudolph ("S. Rudolph") hereinafter collectively referred to as "Claimants": Stephen D. Hartman, Esq., Kerger & Kerger, Toledo, OH.

Respondents A.G. Edwards & Sons, Inc. ("AGE") and Gary L. Sliemers ("Sliemers") hereinafter collectively referred to as "Respondents": Eric A. Michaels, Esq., Hertz, Schram & Saretsky, P.C., Bloomfield Hills, MI.

**CASE INFORMATION**

Statement of Claim filed on or about: January 6, 2003.

Amended Statement of Claim filed on or about: May 6, 2003.

Claimants' Brief in Opposition to Motion to Dismiss filed on or about: May 6, 2003.

Claimants' Brief in Opposition to Respondents' Reply Brief in Support of their Motion to Dismiss or, in the alternative, For a More Definite Statement of the Claims filed on or about: July 8, 2003.

Claimant K. Rudolph signed the Uniform Submission Agreement: January 26, 2003.

Claimant T. Rudolph signed the Uniform Submission Agreement: January 24, 2003.

Claimant S. Rudolph signed the Uniform Submission Agreement: January 26, 2003.

Statement of Answer and Motion to Dismiss, or in the alternative, Motion for a More Definite Statement of the Claim(s) filed by Respondents on or about: April 15, 2003.

Respondents' Reply Brief in Support of their Motion to Dismiss or, in the alternative, For a More Definite Statement of the Claim(s) filed on or about: June 20, 2003.

Respondent AGE signed the Uniform Submission Agreement: March 5, 2003.

Respondent Sliemers signed the Uniform Submission Agreement: March 11, 2003.

### **CASE SUMMARY**

Claimants asserted the following causes of action: omission of fact; misrepresentation; violation of Ohio Revised Code §1707.41; breach of fiduciary duty; negligence; failure to execute; breach of contract; manipulations; and failure to supervise. The causes of action relate to warrants/rights and preferred stock.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted legal and factual defenses to the claims.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$1,000,000.00 and punitive damages in the amount of \$500,000.00.

Respondents requested that the claim be dismissed with prejudice for failure to specify the relevant facts and remedies sought, or in the alternative, order Claimants to file a more definite statement of their claim(s) stating all of the relevant facts; costs; attorneys' fees; and such other and further relief as is deemed just and proper.

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

The Panel and NASD Dispute Resolution were informed that on or about November 1, 2004, the parties agreed to resolve this matter. However, Respondents asked the Panel to make a specific finding that there were no sales practice violations or wrongdoing or other liability attributable to Respondent Sliemers and enter an Award recommending the expungement of all reference to the above-captioned arbitration from all registration records of Respondent Sliemers maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Sliemers must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive. Claimants have no objection to Respondent Sliemers' request.

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**

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. All claims having been withdrawn, the same are hereby dismissed with prejudice and

without costs, except such costs as specified below.

2. The Panel finds no sales practice violations or any other wrongdoing by Respondent Gary Sliemers and orders the expungement of any and all reference to the above captioned arbitration from Respondent Gary Sliemers' 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 Sliemers must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
3. Any and all relief not specifically addressed herein, including punitive damages, is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$500.00
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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 persons at the time of the events giving rise to the dispute. In this matter, A.G. Edwards & Sons, Inc. is a party.

Member Surcharge	= \$2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$5,000.00</u>
Total Member Fees	= \$8,550.00

#### **Adjournment Fees**

The following adjournment fees are assessed:

April 27-29, 2004, joint adjournment request	= \$1,200.00
Claimants' share	= \$600.00
Respondents' share	= \$600.00

#### **Forum Fees and Assessments**

The Panel assesses forum fees for each hearing session conducted. A hearing 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. Forum fees associated with these proceedings are:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$2,400.00  
Pre-hearing conferences: August 8, 2003 1 session  
August 25, 2004 1 session  

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Total Forum Fees = \$2,400.00

1. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure Claimant K. Rudolph has been assessed \$480.00 of the forum fees.
2. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure Claimant T. Rudolph has been assessed \$480.00 of the forum fees.
3. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure Claimant S. Rudolph has been assessed \$480.00 of the forum fees.
4. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure Respondent AGE has been assessed \$480.00 of the forum fees.
5. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure Respondent Sliemers has been assessed \$480.00 of the forum fees.

#### Fee Summary

1. Claimants are jointly and severally liable for:

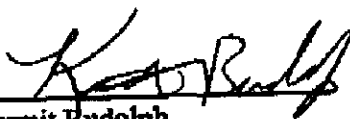
Initial Filing Fee	= \$ 500.00
<u>Adjournment Fee</u>	= \$ 600.00
Total Fees	= \$1,100.00
<u>Less payments</u>	= \$ 500.00
Balance Due NASD Dispute Resolution	= \$ 600.00
2. Claimant K. Rudolph is solely liable for:

<u>Forum Fees</u>	= \$ 480.00
Total Fees	= \$ 480.00
<u>Less payments</u>	= \$ 480.00
Balance Due NASD Dispute Resolution	= \$ 0.00
3. Claimant T. Rudolph is solely liable for:

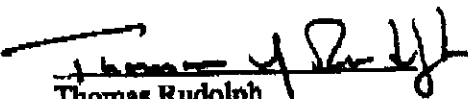
<u>Forum Fees</u>	= \$ 480.00
Total Fees	= \$ 480.00
<u>Less payments</u>	= \$ 240.00
Balance Due NASD Dispute Resolution	= \$ 240.00
4. Claimant S. Rudolph is solely liable for:

<u>Forum Fees</u>	= \$ 480.00
Total Fees	= \$ 480.00
<u>Less payments</u>	= \$ 480.00

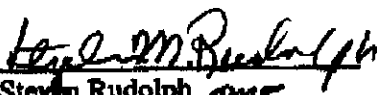
**Parties' Signatures**

  
Kermit Rudolph  
Claimant

12-8-04  
Signature Date

  
Thomas Rudolph  
Claimant

12-10-04  
Signature Date

  
Stephen Rudolph *one*  
Claimant

12-9-04  
Signature Date

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A.G. Edwards & Sons, Inc.  
Respondent

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Signature Date

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Gary Sliemers  
Respondent

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Signature Date

Parties' Signatures

Kermit Rudolph  
Claimant


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

Thomas Rudolph  
Claimant

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

Steven Rudolph  
Claimant

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

  
A.G. Edwards & Sons, Inc.  
Respondent

12/14/04  
Signature Date

Gary Sliemers  
Respondent

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

Parties' Signatures

Kermit Rudolph  
Claimant

Signature Date

Thomas Rudolph  
Claimant

Signature Date

Steven Rudolph  
Claimant

Signature Date

A.G. Edwards & Sons, Inc.  
Respondent

Signature Date

  
Gary Sliemers  
Respondent

Signature Date

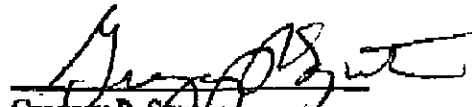
NASD Dispute Resolution  
Arbitration No. 03-00165  
Award Page 7 of 7

**ARBITRATION PANEL**

Gregory P. Szuter	-	Public Arbitrator, Presiding Chair
Joanne C. Brant	-	Public Arbitrator
David A. Ruckman	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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.

  
\_\_\_\_\_  
Gregory P. Szuter  
Public Arbitrator, Presiding Chair

12-6-04  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Joanne C. Brant  
Public Arbitrator

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

\_\_\_\_\_  
David A. Ruckman  
Non-Public Arbitrator

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

\_\_\_\_\_  
December 16, 2004  
Date of Service (For NASD office use only)



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Gregory P. Szuter  
Joanne C. Brant  
David A. Ruckman

Public Arbitrator, Presiding Chair  
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Signature Date

  
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Public Arbitrator

12/6/04  
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Signature Date

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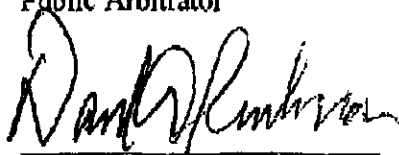
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Public Arbitrator, Presiding Chair

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Signature Date

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Joanne C. Brant  
Public Arbitrator

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Signature Date



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David A. Ruckman  
Non-Public Arbitrator



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