

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Mary J. Riesberg

Case Number: 03-00743

Name of the Respondents
A.G. Edwards & Sons, Inc.,
James R. Wiklund, and
Brian W. Wiklund

Hearing Site: Kansas City, Missouri

NATURE OF THE DISPUTE

Customer v. Member Firm and Associated Persons

REPRESENTATION OF PARTIES

Barry Estell, Esq., of the Law Offices of Barry Estell located in Mission, Kansas, represented Claimant Mary J. Riesberg, ("Riesberg"). J. Christopher Wehrle, Esq., with offices located in Clayton, Missouri, originally represented Mrs. Riesberg.

Michael Naccarato, Esq., in-house counsel for A.G. Edwards, with offices located in St. Louis, Missouri represented Respondents A.G. Edwards & Sons, Inc., ("A.G. Edwards"), James R. Wiklund, ("J. Wiklund") and Brian W. Wiklund ("B. Wiklund"), hereinafter collectively referred to as "Respondents."

CASE INFORMATION

Claimant filed the Statement of Claim on or about January 31, 2003. Claimant Riesberg signed the Uniform Submission Agreement on January 14, 2003.

Respondents filed a Joint Statement of Answer on April 3, 2003. Respondent J. Wiklund signed the Uniform Submission Agreement on March 12, 2003, and B. Wiklund executed his on March 7, 2003.

Claimant filed a Motion for Leave to file an Amended Statement of Claim on December 2, 2003. Respondents filed a Response in Opposition to the Motion on February 10, 2004. Respondents also filed an Answer to the Amended Statement of Claim on December 30, 2004.

CASE SUMMARY

Claimant Riesberg asserted the following causes of action in her original statement of claim: unsuitability, failure to supervise, securities fraud. Her Amended Statement of Claim asserted: Violations of the Federal Securities & Exchange Act; Violation of the Kansas Securities Act; Violation of the Missouri Merchandising Practices Act; Negligence; Breach of Contract and Violation of NASD and Exchange Rules; and Breach of Fiduciary Duty.

The causes of action relate to the GE Commonwealth Variable Annuity, various technology stocks, and Unit Investment Trusts.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: failure to register timely complaints; ratification; waiver; estoppel; authorization; failure to mitigate; failure to exercise due diligence; assumption of risk; losses, if any, were caused by unforeseeable market conditions; claims are barred by the applicable statutes of limitation; lack of legal basis for attorney's fees and interest; and failure to state a claim.

RELIEF REQUESTED

Claimant Riesberg requested compensatory damages in the amount of \$386,438.00, punitive damages in the amount of \$300,000.00, interest, attorney's fees, costs, and any such relief the panel deems just and equitable.

Respondents requested denial and dismissal of claims.

OTHER ISSUES CONSIDERED AND DECIDED

In an order dated August 15, 2004, the Panel granted Claimant's Motion to Amend and accepted the Amended Statement of Claim and Opposition thereto that were already on file.

Respondent A.G. Edward filed an edited Uniform Submission Agreement. As a consequence, it did not file with NASD Dispute Resolution a properly executed submission to arbitration. However, A.G. Edward is required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

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. Respondents A.G. Edwards & Sons, Inc., and James R. Wiklund are jointly and severally liable for and shall pay to Claimant Mary J. Riesberg the sum of \$72,700.00 as compensatory damages, plus 15% interest on this sum that began to accrue April 1, 2001 and ceases to accrue upon payment.
2. Respondents A.G. Edwards & Sons, Inc. and James R. Wiklund are jointly and severally liable for and shall pay to Claimant Mary J. Riesberg the sum of \$30,000.00 as attorney's fees. The Panel determined that it has authority to award attorney's fees.
3. Respondents A.G. Edwards & Sons, Inc. and James R. Wiklund are jointly and severally liable for and shall pay to Claimant Mary J. Riesberg the sum of \$1,575.00 as costs.
4. Respondents A.G. Edwards & Sons, Inc. and James R. Wiklund are jointly and severally liable for and shall pay to Claimant Mary J. Riesberg the sum of \$375.00 as reimbursement for the NASD non-refundable filing fee Claimant paid.
5. Except for the forum fees associated with this matter, which are specified herein, the parties shall each bear their remaining costs.
6. Any and all claims asserted by Mary J. Riesberg against Brian W. Wiklund are dismissed with prejudice and denied in their entirety.
7. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Brian W. Wiklund's 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 Wiklund must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
8. 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 will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee

= \$ 375.00

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, as a party, is assessed the following fees:

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 4,000.00
Total	= \$ 7,000.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the 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 at \$1,200.00	= \$ 2,400.00
Pre-hearing conferences: July 29, 2004 1 session August 13, 2004	
Four (4) Hearing sessions at \$1,200.00 per session	= \$ 4,800.00
Hearing Dates: January 13, 2005 2 sessions January 14, 2005 2 sessions	
Total Forum Fees	= \$ 7,200.00

The Panel assessed \$7,200.00 of the forum fees to A.G. Edwards & Sons, Inc.

FEE SUMMARY

Claimant Mary J. Riesberg is solely liable for:

<u>Initial Filing Fee</u>	= \$ 375.00
<u>Total Fees</u>	= \$ 375.00
<u>Less payments</u>	= \$ 1,575.00
<u>Refund Due from NASD Dispute Resolution</u>	= \$ 1,200.00

Respondent A.G. Edwards & Sons, Inc., is solely liable for:

<u>Member Fees</u>	= \$ 7,000.00
<u>Forum Fees</u>	= \$ 7,200.00
<u>Total Fees</u>	= \$14,200.00
<u>Less payments</u>	= \$ 7,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 7,200.00

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

ARBITRATION PANEL

Robert E. Eisler, Jr.	-	Public Arbitrator, Presiding Chairperson
W. Richard Keene	-	Public Arbitrator
Leslie J. Filson	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ Robert E. Eisler

01/28/05

Robert E. Eisler, Jr.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/ W. Richard Keene

01/27/05

W. Richard Keene
Public Arbitrator

Signature Date

/s/ Leslie J. Filson

01/27/05

Leslie J. Filson
Non-Public Arbitrator

Signature Date

01/28/05

Date of Service (For NASD Dispute Resolution office use only)

W. Richard Keene
Leslie J. Fitson

Public Arbitrator
Non-Public Arbitrator

Consenting Arbitrators' Signatures

Robert E. Eisler, Jr.
Public Arbitrator, Presiding Chairperson

Signature Date

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W. Richard Keene
Public Arbitrator

1/28/05
Signature Date

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Signature Date



Leslie J. Filson
Non-Public Arbitrator

1-27-05
Signature Date

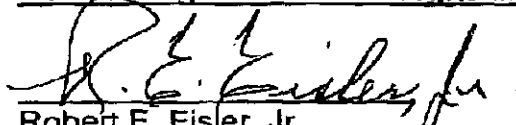
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