

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Marjorie R. Terry, individually and as Trustee of the Terry Family Trust, Claimants v. A.G. Edwards & Sons, Inc., and Delwin Robert Frew, Respondents

Case Number: 03-01876

Hearing Site: San Francisco, California

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

REPRESENTATION OF PARTIES

For Claimants:

Mitchell S. Ostwald, Esq.
Law Offices of Mitchell S.
Ostwald
Sacramento, California

For Respondents:

Dennis J. Capriglione, Esq.
A.G. Edwards & Sons, Inc.
St. Louis, Missouri

CASE INFORMATION

Statement of Claim filed: March 14, 2003

Claimants' Joint Uniform Submission Agreement signed: March 14, 2003

Joint Statement of Answer filed by Respondents: June 10, 2003

Respondent A.G. Edwards & Sons, Inc.'s Uniform Submission Agreement signed: June 9, 2003

Respondent Delwin Robert Frew's Uniform Submission Agreement signed: May 9, 2003

CASE SUMMARY

Claimants alleged breach of fiduciary duty, fraud, constructive fraud, failure to supervise, elder abuse, unfair or deceptive practices against senior citizens, and violations of federal and state securities laws. Claimants' allegations involved the following variable annuities: Aetna Life Insurance and Annuity, Glenbrook AIM Lifetime Plus Variable Annuity, Putnam Capital Manager Variable Annuity, and John Hancock Variable Annuity. Claimants' allegations also involved B Shares of the following mutual funds: AIM Funds, S&P Stars Portfolio Fund, ING Mayflower Trust Funds, American Funds, Seligman Communication and Information Fund, Sun American Focused Large Corp Growth Funds, Putnam New Opportunity Fund, Putnam New Value Fund, Putnam International Growth Fund, and Putnam International Growth and Income Fund.

Respondents denied the allegations of wrongdoing set forth in Claimants' Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested not less than \$274,809.00 in compensatory damages, unspecified punitive damages, disgorgement and restitution, lost opportunity cost, pre- and post-judgment interest, and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety, expungement of all references to this matter from Respondent Delwin Robert Frew's CRD records, and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On March 26, 2003, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure ("Code") IM-10100, the waiver of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

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

- 1) Respondent A.G. Edwards & Sons, Inc., is liable to and shall pay Claimants the sum of \$25,000.00 in compensatory damages.
- 2) Respondent A.G. Edwards & Sons, Inc., is liable to and shall pay Claimants the sum of \$8,200.00 as reimbursement for Robert Weinman's expert witness fees.
- 3) Respondent A.G. Edwards & Sons, Inc., is liable to and shall pay Claimants interest at the rate of 7% per annum on \$25,000.00 from March 14, 2003, until the date compensatory damages are paid in full.
- 4) Claimants' claims against Respondent Delwin Robert Frew are denied in their entirety.
- 5) Respondents' request for expungement of all references to this matter from Respondent Delwin Robert Frew's registration records maintained by the NASD Central Registration Depository ("CRD") is denied.
- 6) The parties shall bear their respective costs, except as noted above, including attorney's fees.
- 7) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm A.G. Edwards & Sons, Inc., is a party and the following fees are assessed:

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$2,750.00
Total Member Fees	= \$5,200.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

(3) Pre-hearing conference sessions with a single arbitrator @ \$450.00/session	= \$ 1,350.00
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Pre-hearing conferences:	September 14, 2004	1 session
	October 12, 2004	1 session
	April 12, 2005	1 session

(2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$ 2,250.00
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Pre-hearing conferences:	December 2, 2003	1 session
	May 27, 2004	1 session

(6) Hearing sessions @ \$1,125.00/session	= \$ 6,750.00
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Hearings:	May 24, 2005	2 sessions
	May 25, 2005	2 sessions
	May 26, 2005	2 sessions

Total Forum Fees	= \$10,350.00
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1. The Panel assessed \$5,175.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$5,175.00 of the forum fees to Respondent A.G. Edwards & Sons, Inc.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 5,175.00</u>
Total Fees	= \$ 5,475.00
<u>Less payments</u>	<u>= \$(1,425.00)</u>
Balance Due NASD Dispute Resolution	= \$ 4,050.00

2. Respondent A.G. Edwards & Sons, Inc., is charged with the following fees and costs:

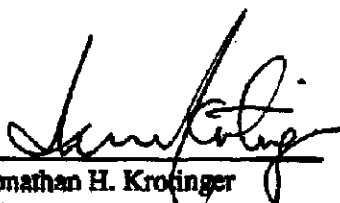
Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	<u>= \$ 5,175.00</u>
Total Fees	= \$10,375.00
<u>Less payments</u>	<u>= \$ (5,200.00)</u>
Balance Due NASD Dispute Resolution	= \$ 5,175.00

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

ARBITRATION PANEL

Jonathan H. Krotinger	-	Public Arbitrator, Presiding Chair
Julie D. Soo	-	Public Arbitrator
Timothy P. Bogan	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Jonathan H. Krotinger
Chair, Public Arbitrator

5/27/05
Signature Date

Julie D. Soo
Public Arbitrator

Signature Date

Timothy P. Bogan
Non-Public Arbitrator

Signature Date

5/27/05
Date of Service

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Public Arbitrator

Signature Date


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Non-Public Arbitrator

5-27-05
Signature Date

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Chair, Public Arbitrator

Signature Date

Julie D. Soo
Julie D. Soo
Public Arbitrator

5/27/05
Signature Date

Timothy P. Bogan
Non-Public Arbitrator

Signature Date

May 31, 2005
Date of Service