

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

John Martin Machala (Claimant) v. A.G. Edwards & Sons, Inc. and Stephen A. Fornarola (Respondents)

Case Number: 03-01902

Hearing Site: Buffalo, New York

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

REPRESENTATION OF PARTIES

Claimant John Martin Machala ("Machala") hereinafter referred to as "Claimant" appeared *pro se*. Assisted by Albert Brightenfield, CPA, Batavia, NY.

Respondents A.G. Edwards & Sons, Inc. ("AGE") and Stephen A. Fornarola ("Fornarola") hereinafter collectively referred to as "Respondents": Matthew R. Salamon, Esq., A.G. Edwards & Sons, Inc., St. Louis, MO.

CASE INFORMATION

Statement of Claim filed on or about: March 12, 2003.

Claimant signed the Uniform Submission Agreement: March 11, 2003.

Statement of Answer filed by Respondents on or about: May 19, 2003.

Respondent AGE signed the Uniform Submission Agreement: April 4, 2003.

Respondent Fornarola signed the Uniform Submission Agreement: April 15, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: suitability; negligence; misrepresentation; and breach of fiduciary duty. Claimant's claim involved the American Funds and Rochester Funds.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$320,950.06; punitive damages in the amount of \$15,000.00; and interest in the amount of \$45,000.00.

Respondents requested that the Statement of Claim be dismissed with prejudice; that Respondents be awarded their costs; an award recommending expungement of any reference to these proceedings from Respondents' records as maintained by the Central Registration Depository organizations, and for any other and further relief deemed appropriate under the facts and circumstances of the case.

OTHER ISSUES CONSIDERED AND DECIDED

During the hearing, Claimant was not represented by an attorney but was assisted by Albert Brightenfield, who is a CPA and a licensed stock broker.

At the end of Claimant's case, Respondents moved for a directed verdict on the grounds that Claimant failed to prove the claim alleged in the Statement of Claim. The Panel reserved decision on the motion, and subsequently denied it at the end of Respondents' case.

The parties have 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, and 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. Claimant's claims are dismissed in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, is denied.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Stephen A. Fornarola'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 Stephen A. Fornarola must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.

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 = \$300.00

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 & Sons, Inc. is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

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:

One (1) Pre-hearing session with Panel @ \$1,125.00 = \$1,125.00

Pre-hearing conference: October 15, 2003 1 session

Four (4) Hearing sessions @ \$1,125.00 = \$4,500.00

Hearing Dates: March 30, 2004 2 sessions

March 31, 2004 2 sessions

Total Forum Fees = \$5,625.00

1. The Panel has assessed \$2,812.50 of the forum fees against Claimant.
2. The Panel has assessed \$2,812.50 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= <u>\$2,812.50</u>
Total Fees	= \$3,112.50
<u>Less payments</u>	= <u>\$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$1,687.50

2. Respondent AGE is solely liable for:

<u>Member Fees</u>	= <u>\$5,200.00</u>
Total Fees	= \$5,200.00
<u>Less payments</u>	= <u>\$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

Forum Fees	= \$2,812.50
Total Fees	= \$2,812.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$2,812.50

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

ARBITRATION PANEL

Donald T. Cook, Esq.	-	Public Arbitrator, Presiding Chair
David Buch, Esq.	-	Public Arbitrator
Jeffrey Mark Schwartz	-	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, which is my award.



Donald T. Cook, Esq.
Public Arbitrator, Presiding Chairperson

4/5/04
Signature Date

David Buch, Esq.
Public Arbitrator

Signature Date

Jeffrey Mark Schwartz
Non-Public Arbitrator

Signature Date

April 7, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Donald T. Cook, Esq.	-	Public Arbitrator, Presiding Chair
David Buch, Esq.	-	Public Arbitrator
Jeffrey Mark Schwartz	-	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, which is my award.

Donald T. Cook, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

David Buch
David Buch, Esq.
Public Arbitrator

4/5/04
Signature Date

Jeffrey Mark Schwartz
Non-Public Arbitrator

Signature Date

April 7, 2004
Date of Service (For NASD Dispute Resolution use only)

NASD Dispute Resolution:
Arbitration No. 03-01902
Award Page 5 of 5

ARBITRATION PANEL

Donald T. Cook, Esq.	-	Public Arbitrator, Presiding Chair
David Buch, Esq.	-	Public Arbitrator
Jeffrey Mark Schwartz	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

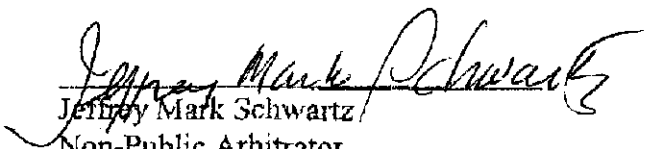
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Donald T. Cook, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

David Buch, Esq.
Public Arbitrator

Signature Date


Jeffrey Mark Schwartz
Non-Public Arbitrator

April 5, 2004
Signature Date

April 7, 2004
Date of Service (For NASD Dispute Resolution use only)