

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

James M. Solomonson and Janet H. Solomonson, on behalf of The James M. and Janet H. Solomonson Joint Account, the James M. Solomonson IRA, and the Janet H. Solomonson IRA, and Janet H. Solomonson (individually and as attorney-in-fact for Alice D. Heselton) and Joann Cress on behalf of the A. Heselton, J. Solomonson, and J. Cress Joint Account, Claimants v. A.G. Edwards & Sons, Inc. and Monty E. Davis, Respondents

Case Number: 03-02593

Hearing Site: Seattle, Washington

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

REPRESENTATION OF PARTIES

For Claimants:

Ronald R. Leaders, Esq.
Buckley & Leaders
Vashon, Washington

For Respondents:

Matthew Salamon, Esq.
A.G. Edwards & Sons, Inc.
St. Louis, Missouri

CASE INFORMATION

Statement of Claim filed: April 4, 2003

Claimants James M. Solomonson's and Janet H. Solomonson's (individually and as attorney-in-fact for Alice D. Heselton) Joint Uniform Submission Agreement signed on: March 30, 2003

Claimant Joann Cress' Uniform Submission Agreement signed on: May 1, 2003

Joint Statement of Answer filed by Respondents: July 23, 2003

Respondent A.G. Edwards & Sons, Inc.'s Uniform Submission Agreement signed on:
June 23, 2003

Respondent Monty E. Davis' Uniform Submission Agreement signed on: July 16, 2003

CASE SUMMARY

Claimants alleged breach of fiduciary duty, unsuitability, misrepresentation, omission of facts, negligence, and failure to supervise. Claimants' allegations involved the sale of **Class A shares** in the Templeton Growth and Franklin Income Funds, the subsequent purchase of **Class B shares** in the Mass Investors Trust and Putnam Investors Funds, and other transactions in **unspecified securities**.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

RELIEF REQUESTED

Claimants James M. Solomonson and Janet H. Solomonson, on behalf of **The James M and Janet H. Solomonson Joint Account**, **The James M. Solomonson IRA**, and **The Janet H. Solomonson IRA** requested **\$150,000.00** in compensatory damages, return of all commissions, **\$50,000.00** in punitive damages, pre-judgment interest at the statutory rate, and costs, including attorney's fees.

Claimants Janet H. Solomonson (individually and as attorney-in-fact for Alice D. Heselton) and Joann Cress on behalf of the **A. Heselton, J. Solomonson, J. Cress Joint Account** requested rescission of all purchases and reimbursement in the amount of **\$253,237.06** less the value of the account at the time of hearing or, alternatively, compensatory damages of **\$100,000.00**. In addition, Claimants requested return of all commissions, **\$100,000.00** in punitive damages, interest at the statutory rate, and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety, and costs, including attorney's fees. Respondent Monty E. Davis further requested the expungement of all reference to this arbitration from his registration records maintained by the NASD Central Registration Depository.

OTHER ISSUES CONSIDERED AND DECIDED

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) Respondents A.G. Edwards & Sons, Inc. and Monty E. Davis are jointly and severally liable to and shall pay to the Alice D. Heseltun, Janet H. Solomonson, and Joann Cress Joint Account, the sum of \$10,000.00 in compensatory damages.
- 2) All claims made on behalf of the James M. Solomonson and Janet H. Solomonson Joint Account, the James M. Solomonson IRA, and the Janet H. Solomonson IRA are denied in their entirety.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) 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:

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: November 5, 2003	1 session

Five (5) Hearing sessions @ \$1,125.00/session	= \$5,625.00
Hearings: July 7, 2004	2 sessions
July 8, 2004	2 sessions
July 9, 2004	1 session

Total Forum Fees	= \$6,750.00
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1. The Panel assessed \$3,375.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$3,375.00 of the forum fees jointly and severally to Respondents.

Fee Summary

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

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 3,375.00
Total Fees	= \$ 3,675.00
Less payments	= \$(1,250.00)
Balance Due NASD Dispute Resolution	= \$ 2,425.00

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

Member Fees	= \$ 5,200.00
Less payments	= \$(5,200.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents A.G. Edwards & Sons, Inc. and Monty E. Davis are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 3,375.00
Balance Due NASD Dispute Resolution	= \$ 3,375.00

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

John F. Cockburn
Douglas Martin Crow
Jan Aalbrektse Slinn, J.D.

- *Public Arbitrator, Presiding Chair*
- *Public Arbitrator*
- *Non-Public Arbitrator*

Concurring Arbitrators' Signatures

John F. Cockburn
Chair, Public Arbitrator

Signature Date

Douglas Martin Crow
Public Arbitrator

Signature Date

Jan Aalbrektse Slinn, J.D.
Non-Public Arbitrator

Signature Date

Date of Service

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John F. Cockburn
Chair, Public Arbitrator

Signature Date

Douglas Martin Crow
Public Arbitrator

Signature Date

Jan A. Stinn
Jan Aalbrege Stinn, J.D.
Non-Public Arbitrator

7/15/04

Signature Date

7/15/04


Date of Service

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Douglas Martin Crow
Jan Aalbrektse Slinn, J.D.

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


John F. Cockburn
Chair, Public Arbitrator

July 13, 2004
Signature Date

Douglas Martin Crow
Public Arbitrator

Signature Date

Jan Aalbrektse Slinn, J.D.
Non-Public Arbitrator

Signature Date

7/15/04
Date of Service

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Douglas Martin Crow
Jan Aalbregtse Slinn, J.D.

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Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

John F. Cockburn
Chair, Public Arbitrator

Signature Date

Douglas M. Crow
Douglas Martin Crow
Public Arbitrator

7-19-04
Signature Date

Jan Aalbregtse Slinn, J.D.
Non-Public Arbitrator

Signature Date

Date of Service