
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Michele D'Amour and Anthony Fleming JNT
James L. Jones
Darlene Jones

Case Number: 03-03049

Names of the Respondents

A.G. Edwards & Sons, Inc.
Dan Hess

Hearing Site: Tampa, Florida

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

REPRESENTATION OF PARTIES

For Michele D'Amour and Anthony Fleming JNT, James L. Jones and Darlene Jones, hereinafter collectively referred to as "Claimants": J. Benton Stewart, II, Esq., The Stewart Law Group, P.L., Tampa, Florida.

For A.G. Edwards, hereinafter referred to as "Respondent A.G. Edwards": David M. Minnick, Vice President & Counsel with Respondent A.G. Edwards, St. Louis, Missouri. On or about October 18, 2004, Clay L. Grumke, Vice President & Counsel with Respondent A.G. Edwards, substituted as counsel.

For Dan Hess, hereinafter referred to as "Respondent Hess": David M. Minnick, Vice President & Counsel with Respondent A.G. Edwards, St. Louis, Missouri. On or about September 2, 2003, Marc S. Dobin, Esq., Dobin & Jenks, LLP, Jupiter, Florida, appeared as counsel for Respondent Hess. On or about September 15, 2003, David M. Minnick withdrew as counsel.

CASE INFORMATION

Statement of Claim filed on or about: April 25, 2003.

Claimant Michele D'Amour signed the Uniform Submission Agreement: May 20, 2003.

Claimant Anthony Fleming signed the Uniform Submission Agreement: May 2, 2003.

Claimant James L. Jones signed the Uniform Submission Agreement: May 29, 2003.

Claimant Darlene Jones signed the Uniform Submission Agreement: May 29, 2003.

Statement of Answer and Motion for More Definite Statement filed by Respondents on or about: July 25, 2003.

First Amended Statement of Answer and Motion for More Definite Statement filed by Respondents on or about:

August 27, 2003.

Claimants' Motion to Strike Respondents' Motion for More Definite Statement filed on or about: September 11, 2003.

Respondent A.G. Edwards did not file an executed Uniform Submission Agreement.

Respondent Hess signed the Uniform Submission Agreement: August 8, 2003.

CASE SUMMARY

Claimants alleged the following causes of action: 1) violation of Chapter 517 of the Florida Statutes; 2) misrepresentations and omissions; 3) churning; 4) unsuitability; 5) breach of fiduciary duty; and 6) failure to supervise. The causes of action relate to investments in various unspecified options.

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

RELIEF REQUESTED

Claimant Michele D'Amour and Anthony Fleming JNT requested: 1) compensatory damages in the amount of \$234,056.00; 2) interest; 3) special credit; 4) commissions; 5) mark up/down, or added credits; 6) disgorgement; 7) punitive damages; 8) costs; 9) attorneys' fees; and 10) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Claimants James L. Jones and Darlene Jones requested: 1) compensatory damages in the amount of \$33,298.00; 2) interest; 3) special credit; 4) commissions; 5) mark up/down, or added credits; 6) disgorgement; 7) punitive damages; 8) costs; 9) attorneys' fees; and 10) such other relief the Panel deemed just and proper.

Respondents requested: 1) dismissal of the Statement of Claim in its entirety; 2) costs and expenses; 3) reasonably attorneys' fees; and 4) expungement of all reference to the above captioned arbitration from Respondent Hess' registration records maintained by the NASD Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

Respondent A.G. Edwards did not file with NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim and requested the entry of this Stipulated Award, is bound by the determination of the Panel on all issues submitted.

On or about July 7, 2003, Respondents filed their Motion to Sever. On or about July 28, 2003, Claimants filed their Response. On or about December 19, 2003, the Panel granted Respondents' Motion to Sever. The Panel severed Claimants James L. Jones and Darlene Jones and their respective claims from the above-referenced arbitration proceeding. Furthermore, the Panel denied Respondents' Motion for More Definite Statement and denied Claimants' Motion to Strike Respondents' Motion for More Definite Statement.

On or about November 5, 2004, Claimant Michele D'Amour and Anthony Fleming JNT filed a notice of settlement of their claims with Respondents.

On or about November 24, 2004, Claimant Michele D'Amour and Anthony Fleming JNT and Respondents filed their joint motion for entry of a Stipulated Award. The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

AWARD

After considering the pleadings and the request for the entry of a Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant Michele D'Amour and Anthony Fleming JNT's claims, including statutory claims under Chapter 517, Florida Statutes, against Respondents A.G. Edwards and Hess are dismissed with prejudice.
2. The Panel recommends expungement of all references to the above-captioned arbitration proceeding from Respondent Hess' registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Hess must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. Claimant Michele D'Amour and Anthony Fleming JNT, Respondent A.G. Edwards and Respondent Hess shall bear their respective costs, including attorneys' fees.
4. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD 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, Respondent A.G. Edwards is a member firm and a party.

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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

November 8 – 12, 2004, settled by Claimant Michele D'Amour and Anthony Fleming JNT	= \$ 150.00
November 8 – 12, 2004, settled by Respondents A.G. Edward and Hess	= \$ 150.00

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

There were no injunctive relief fees assessed during these proceedings.

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 a single arbitrator @ \$450.00 per session	= \$ 450.00
Pre-hearing conference: October 11, 2004 1 session	

One (1) Pre-hearing session with Panel @ \$1,125.00 per session	= \$1,125.00
Pre-hearing conference: December 19, 2003 1 session	

Total Forum Fees	= \$1,575.00
------------------	--------------

The Panel has assessed forum fees in the amount of \$787.50 to Claimant Michele D'Amour and Anthony Fleming JNT.

The Panel has assessed forum fees in the amount of \$787.50 jointly and severally to Respondents A.G. Edwards and Hess.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 300.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Claimant Michele D'Amour and Anthony Fleming JNT is liable for:

<u>Three-Day Cancellation Fee</u>	= \$ 150.00
<u>Retained Hearing Session Deposit</u>	= \$ 337.50
<u>Forum Fees</u>	= \$ 787.50
<u>Total Fees</u>	= \$1,275.00
<u>Less payments</u>	= \$1,125.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 150.00

Respondent A.G. Edwards is solely liable for:

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

Respondents A.G. Edwards and Hess are jointly and severally liable for:

<u>Three-Day Cancellation Fee</u>	= \$ 150.00
<u>Forum Fees</u>	= \$ 787.50
<u>Total Fees</u>	= \$ 937.50
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 937.50

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

ARBITRATION PANEL

<i>Diana A. Weiner, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Richard N. Davidoff</i>	-	<i>Public Arbitrator</i>
<i>Augusto V. Perrotta</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Diana A. Weiner, Esq.
Public Arbitrator, Presiding Chairperson

December 21, 2004
Signature Date

NASD Dispute Resolution
Arbitration No. 03-03049
Stipulated Award Page 5

Fee Summary

Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 300.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Claimant Michele D'Amour and Anthony Fleming JNT is liable for:

Three-Day Cancellation Fee	= \$ 150.00
Retained Hearing Session Deposit	= \$ 337.50
<u>Forum Fees</u>	= \$ 787.50
<u>Total Fees</u>	= \$1,275.00
<u>Less payments</u>	= \$1,125.00
Balance Due NASD Dispute Resolution	= \$ 150.00

Respondent A.G. Edwards is solely liable for:

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

Respondents A.G. Edwards and Hess are jointly and severally liable for:

Three-Day Cancellation Fee	= \$ 150.00
<u>Forum Fees</u>	= \$ 787.50
<u>Total Fees</u>	= \$ 937.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 937.50

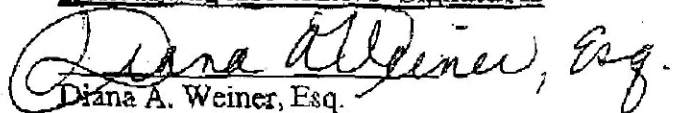
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Diana A. Weiner, Esq.
Richard N. Davidoff
Augusto V. Perrotta

Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


Diana A. Weiner, Esq.
Public Arbitrator, Presiding Chairperson

12-21-2004
Signature Date

/s/

Richard N. Davidoff
Public Arbitrator

December 21, 2004

Signature Date

/s/

Augusto V. Perrotta
Non-Public Arbitrator

December 22, 2004

Signature Date

December 22, 2004

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

NASD Dispute Resolution
Arbitration No. 03-03049
Stipulated Award Page 6


Richard N. Davidoff
Public Arbitrator

12/21/04
Signature Date

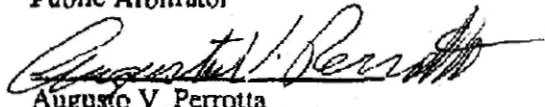
Augusto V. Perrotta
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution
Arbitration No. 03-03049
Stipulated Award Page 6

Richard N. Davidoff
Public Arbitrator



Augusto V. Perrotta
Non-Public Arbitrator

Signature Date

12-22-04
Signature Date

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