
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Kathryn Bielefeld

Case Number: 03-05118

Names of the Respondents
A.G. Edwards and Sons, Inc.
Timothy C. Bryant

Hearing Site: Tampa, Florida

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

REPRESENTATION OF PARTIES

For Kathryn Bielefeld, hereinafter referred as "Claimant": Allan J. Fedor, Esq., Law Offices of Fedor & Fedor, Largo, Florida.

For Respondent A.G. Edwards and Sons, Inc. ("AGE"): M. Jane Matoesian, Vice President and Counsel, A.G. Edwards & Sons, Inc., St. Louis, Missouri.

For Respondent Timothy C. Bryant ("Bryant"): Sara Soto, Esq., Fowler White Burnett, Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: July 11, 2003.

Claimant signed the Uniform Submission Agreement: July 2, 2003.

Statement of Answer filed jointly by Respondents on or about: September 10, 2003.

Respondent AGE signed the Uniform Submission Agreement: July 29, 2003.

Respondent Bryant signed the Uniform Submission Agreement: August 26, 2003.

Amended Statement of Claim filed by Claimant on or about: October 15, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: negligence; gross negligence; mismanagement; unsuitability; fraudulent and deceptive practices; breach of fiduciary duty; negligent supervision; misrepresentations and omissions; violation of NASD Rules; respondeat superior; and, violations of the Florida Securities and Investor Protection Act. The causes of action relate to the transfer from Claimant's account of shares of UPS stock into the privately offered Altavera Capital Fund LLC.

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

RELIEF REQUESTED

Claimants requested the following:

- (a) actual, compensatory and consequential damages, including legal interest, in a collective amount of at least \$1,629,019.00 but less than \$5,000,000.00;
- (b) rescission of the investment in Altavera Capital Fund LLC;
- (c) costs, expenses and disbursements in pursuing this arbitration proceeding;
- (d) reasonable attorneys' fees to be awarded by a court of competent jurisdiction in a post-award action to confirm the award and to award attorneys' fees, pursuant to section 517.211(6) of the Florida Statutes;
- (e) reimbursement of the \$1,700.00 filing fee and all forum fees advanced to NASD Dispute Resolution;
- (f) punitive damages in an amount to be determined by the Panel; and
- (g) such other relief as deemed appropriate by the Panel.

Respondents requested that the Panel dismiss the Statement of Claim in its entirety, and assess all fees and costs, including a reasonable attorney's fee, against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

During the evidentiary hearings, each Respondent moved to strike Claimant's claims pursuant to Chapter 517.301 of the Florida Statutes, asserting that the claims were barred by the Statute of Limitations. The Panel denied Respondents' motions.

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, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents AGE and Bryant are jointly and severally liable on the following claims: violations of common law and Florida Statute 517.301; negligent misrepresentations and/or omissions; and, violation of NASD Rules regarding prohibited business practices. As such, Respondents AGE and Bryant are jointly and severally liable for, and shall pay to Claimant, compensatory and economic damages in the full amount of \$75,899.95, inclusive of costs and accrued interest from February 1, 2001 through August 1, 2001.

Respondents AGE and Bryant are jointly and severally liable and shall reimburse Claimant the sum of \$600.00, representing the non-refundable filing fee paid by Claimant to NASD Dispute Resolution.

Claimant is directed to a court of competent jurisdiction with respect to Claimant's request for attorneys' fees.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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 = \$ 600.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent AGE is a member firm and a party.

Member Surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$5,000.00</u>
Total Member Fees	= \$8,550.00

Adjournment Fees

No adjournments were requested in this matter.

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.

No three-day cancellation fees were assessed in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction 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.

Injunctive relief fees were not assessed in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the panel and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or more. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Panel @ \$1,200.00/session	= \$1,200.00
Pre-hearing conference: March 11, 2004 1 session	
Four (4) Hearing sessions @ \$1,200.00/session	= \$4,800.00

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Pre-hearing conference: March 11, 2004 1 session	
Four (4) Hearing sessions @ \$1,200.00/session	= \$4,800.00

Hearing Dates: December 1, 2004 2 sessions
December 2, 2004 2 sessions

Total Forum Fees = \$6,000.00

The Panel has assessed forum fees of \$2,000.00 to Claimant.

The Panel has assessed forum fees of \$4,000.00 to Respondents, jointly and severally.

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 in this matter.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 600.00
<u>Forum Fees</u>	<u>= \$2,000.00</u>
Total Fees	= \$2,600.00
<u>Less Payments</u>	<u>= \$1,700.00</u>
Balance Due NASD Dispute Resolution	= \$ 900.00

Respondent is solely liable for:

Member Fees	= \$8,550.00
Total Fees	= \$8,550.00
<u>Less Payments</u>	<u>= \$8,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$4,000.00</u>
Total Fees	= \$4,000.00
<u>Less Payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$4,000.00

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

ARBITRATION PANEL

Edward M. Panzica, Esq.	-	Public Arbitrator, Presiding Chairperson
Lusia A. Archiletti	-	Public Arbitrator
Sharon Lee Chernin	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/_____
Edward M. Panzica, Esq.
Public Arbitrator, Presiding Chairperson

December 7, 2004
Signature Date

_____/s/_____
Lusia A. Archiletti
Public Arbitrator

December 7, 2004
Signature Date

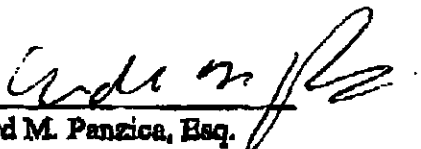
_____/s/_____
Sharon Lee Chernin
Non-Public Arbitrator

December 8, 2004
Signature Date

December 8, 2004
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

Arbitration No. 03-05118

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Edward M. Panzica, Esq.

Public Arbitrator, Presiding Chairperson

12/7/04
Signature DateLusia A. Archiletti

Public Arbitrator

Signature DateSharon Lee Chernin

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Public Arbitrator

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Public Arbitrator, Presiding Chairperson

Signature Date

Lusia A. Archiletti
Public Arbitrator

Signature Date



Sharon Lee Chernin
Non-Public Arbitrator

12/8/04

Signature Date

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