

**STIPULATED AWARD**  
**NASD DISPUTE RESOLUTION**

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In the Matter of the Arbitration Between:

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Name of Claimant

Roy D. Cole

Case No: 03-05193

Names of Respondent

Hearing Site: Houston, Texas

A.G. Edwards & Sons, Inc.

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**NATURE OF THE CASE**

Associated Person v. Member Firm

**REPRESENTATION OF THE PARTIES**

Roy D. Cole ("Claimant") was not represented by counsel.

A.G. Edwards & Sons, Inc. ("A.G. Edwards") was represented by Nuviah Shirazi, Esq., A.G. Edwards & Sons, Inc., in St. Louis, Missouri.

**CASE INFORMATION**

The Statement of Claim was filed on or about June 29, 2003.

The Submission Agreement of Claimant was signed on or about June 29, 2003.

The Amended Statement of Claim was filed on or about September 29, 2003.

Statement of Answer was filed by A.G. Edwards & Sons, Inc. filed August 27, 2003.

The Submission Agreement of A. G. Edwards & Sons, Inc. filed August 27, 2003.

**CASE SUMMARY**

In his Statement of Claim, Roy D. Cole alleged that Respondent A.G. Edwards inaccurately reported information on his Form U-5 and his Central Registration Depository ("CRD") record.

Unless specifically admitted in its Answer, Respondent, A.G. Edwards, denied the allegations made in the Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of:

Actual/Compensatory	\$.01
Specific Performance	(see below)
Attorney's Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Regarding Claimant's Request for Specific Performance, Mr. Cole requested relief in the form of the following:

1. The deletion, removal, and/or expungement of all of the CRD data along with a statement in the award indicating that the reason for this order is due to the defamatory nature of the information;
2. That the wording in the section [of the Form U-5] "reason for termination" be deleted, removed and/or expunged and replaced with the wording "For cause – including but not limited to engaging in outside personal activities during normal working hours";
3. The deletion, removal, and/or expungement of any and all wording in the Form U-5 that refers to the misdemeanor charge of June 2001; and
4. That all filing fees, hearing costs, cost of filing notices, other costs related to this arbitration proceeding, and any legal counsel fees (if any) incurred by Claimant be reimbursed by Respondent.

Respondents requested that the claims asserted against them be denied in their entirety.

### **OTHER ISSUES CONSIDERED & DECIDED**

On or about October 30, 2003, the parties informed NASD Dispute Resolution, Inc. that they had entered into a settlement agreement.

On or about December 23, 2003, the parties filed with NASD Dispute Resolution, Inc. a joint motion to approve this Stipulated Award and that the undersigned arbitrator (the "Panel") enter an Order amending the termination language in Mr. Cole's CRD records and expunging the current language. This Stipulated Award is being executed solely in conjunction with a settlement agreement between the parties.

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. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on file with NASD Regulation, Inc. ("NASDR").

### **AWARD**

After considering the pleadings and the motion to approve this Stipulated Award, the undersigned arbitrator have decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against Respondent A.G. Edwards are hereby dismissed.
2. The Panel orders expungement by NASDR, through the CRD, of the following language that currently appears in the CRD record concerning Mr. Cole's termination from A.G. Edwards, "Mr. Cole was discharged after A.G. Edwards learned that he had been arrested and charged with a misdemeanor in the State of Texas," based on the defamatory nature of the information in the CRD system.
3. The Panel orders replacement by NASDR, through CRD, of the foregoing termination language with the following language, "The employer was advised of activities by the employee outside the workplace, which the employer considered inconsistent with the Firm's policies."
4. The Panel orders the deletion, removal, and/or expungement by NASDR, through CRD, of all of the data in Mr. Cole's CRD record, including archived data, related to the criminal charge of June 2001 based on the defamatory nature of the information in the CRD system;
5. The Panel orders the deletion, removal, and/or expungement by NASDR, through CRD, of any and all wording in Mr. Cole's Form U-5 that refers to the criminal charge of June 2001 based on the defamatory nature of the information in the CRD system; and
6. All parties shall bear their respective costs, including attorney fees.

### **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 = \$250.00

### 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. In this matter, the member firm is A.G. Edwards & Sons, Inc.

Member surcharge = \$150.00

### Forum Fees and Assessments

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

Forum Fees – Paper Case = \$25.00

Total Forum Fees = \$25.00

The parties have agreed to pay forum fees as follows:

Respondent shall pay \$25.00

### FEE SUMMARY

Claimant, Roy D. Cole, is liable for:

Initial Filing Fee = \$ 250.00

Total Fees = \$ 250.00

Less payments = \$ 50.00

**Balance Due NASD Dispute Resolution = \$ 200.00**

Respondent, A.G. Edwards & Sons, Inc., is liable for:

Member Fees = \$ 150.00

Forum Fees = \$ 25.00

Total Fees = \$ 175.00

Less payments = \$ 900.00

**Refund Due to A.G. Edwards = \$ 725.00**

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

**ARBITRATOR**

Irving Pozmantier - Public Presiding Chair

Arbitrator:

/s/ Irving Pozmantier  
Irving Pozmantier  
Public Arbitrator, Presiding Chair

May 28, 2004  
Signature Date

June 9, 2004  
Date of Service (For NASD office use only)

**ARBITRATOR**

Irving Pozmantier - Public Presiding Chair

Arbitrator:

Irving Pozmantier

Irving Pozmantier  
Public Arbitrator, Presiding Chair

5-28-04

Signature Date

                      
Date of Service (For NASD office use only)