

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

The Estate of Joseph Sportello, Isobel Sportello, Peter Sportello, and Annmarie Sportello
(Claimants) v. A.G. Edwards & Sons, Inc. and Jim Cohlma (Respondents)

Case Number: 03-05862

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimants The Estate of Joseph Sportello ("The Estate of Joseph Sportello"), Isobel Sportello ("I. Sportello"), Peter Sportello ("P. Sportello"), and Annmarie Sportello ("A. Sportello") hereinafter collectively referred to as "Claimants": Mark J. Astarita, Esq., Beam & Astarita, LLC, Bloomfield, NJ.

Respondents A.G. Edwards & Sons, Inc. ("A.G. Edwards") and Jim Cohlma ("J. Cohlma") hereinafter collectively referred to as "Respondents": William S. Port, Esq., A.G. Edwards & Sons, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: August 8, 2003.

Claimants Joseph Sportello and I. Sportello signed the Uniform Submission Agreement: June 11, 2003.

Claimants P. Sportello and A. Sportello signed the Uniform Submission Agreement: July 21, 2003.

Joint Statement of Answer filed by Respondents on or about: September 26, 2003.

Respondent A.G. Edwards signed the Uniform Submission Agreement.

Respondent J. Cohlma signed the Uniform Submission Agreement: September 7, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: suitability; common law fraud and fraud under Rule 10b-5; breach of contract; breach of fiduciary duty; negligence; negligent misrepresentation; failure to supervise; control person liability; and respondeat superior. Claimants' claims involved the purchase and sale of options.

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 compensatory damages in the amount of \$1,000,000.00 for P. Sportello, \$115,000.00 for A. Sportello, \$90,000.00 for The Estate of Joseph Sportello, and \$400,000.00 for I. Sportello; lost opportunity and well-managed account damages; damages as provided for in the applicable state statutes; reasonable attorneys' fees; punitive damages; interest, costs, reimbursement of arbitration and witness costs; and all forum fees and costs related to the hearings held herein.

Respondents requested that the Panel dismiss Claimants' Statement of Claim in its entirety; an award of costs, including reasonable attorneys' fees; and such other and further relief as the Panel may deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about March 3, 2004, the Claimants made a Motion to Substitute the Estate of Joseph Sportello for Joseph Sportello. The Respondents did not oppose the Motion. On or about April 6, 2004, the Panel granted the Motion.

Claimants moved for sanctions and preclusion for Respondents' failure to provide 20-day exchange material in discovery. The Panel denied the motion.

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. Respondents are jointly and severally liable for and shall pay to Claimant The Estate of Joseph Sportello compensatory damages in the amount of \$39,386.00.
2. Respondents are jointly and severally liable for and shall pay to Claimant The Estate of Joseph Sportello attorneys' fees in the amount of \$4,893.00, in accordance with Mastrobuono v. Shearson Lehman, 514 U.S. 52 (1995), and Arizona Law 12-341.01(b).
3. Respondents are jointly and severally liable for and shall pay to Claimant The Estate of Joseph Sportello costs and expenses in the amount of \$736.00.
4. Respondent A.G. Edwards is liable for and shall pay to Claimant The Estate of Joseph Sportello punitive damages in the amount of \$42,120.00, in accordance with

Mastrobuono v. Shearson Lehman, 514 U.S. 52 (1995).

5. Respondent J. Cohlma is liable for and shall pay to Claimant The Estate of Joseph Sportello punitive damages in the amount of \$5,266.00, in accordance with Mastrobuono v. Shearson Lehman, 514 U.S. 52 (1995).
6. Respondents are jointly and severally liable for and shall pay to Claimants P. Sportello and I. Sportello compensatory damages in the amount of \$127,302.00.
7. Respondents are jointly and severally liable for and shall pay to Claimants P. Sportello and I. Sportello attorneys' fees in the amount of \$15,826.00, in accordance with Mastrobuono v. Shearson Lehman, 514 U.S. 52 (1995), and Arizona Law 12-341.01(b).
8. Respondents are jointly and severally liable for and shall pay to Claimant P. Sportello and I. Sportello costs and expenses in the amount of \$2,383.00.
9. Respondent A.G. Edwards is liable for and shall pay to Claimants P. Sportello and I. Sportello punitive damages in the amount of \$136,144.00, in accordance with Mastrobuono v. Shearson Lehman, 514 U.S. 52 (1995).
10. Respondent J. Cohlma is liable for and shall pay to Claimants P. Sportello and I. Sportello punitive damages in the amount of \$17,018.00, in accordance with Mastrobuono v. Shearson Lehman, 514 U.S. 52 (1995).
11. Respondents are jointly and severally liable for and shall pay to Claimant A. Sportello compensatory damages in the amount of \$56,527.00.
12. Respondents are jointly and severally liable for and shall pay to Claimant A. Sportello attorneys' fees in the amount of \$7,028.00, in accordance with Mastrobuono v. Shearson Lehman, 514 U.S. 52 (1995), and Arizona Law 12-341.01(b).
13. Respondents are jointly and severally liable for and shall pay to Claimant A. Sportello costs and expenses in the amount of \$1,058.00.
14. Respondent A.G. Edwards is liable for and shall pay to Claimant A. Sportello punitive damages in the amount of \$60,448.00, in accordance with Mastrobuono v. Shearson Lehman, 514 U.S. 52 (1995).
15. Respondent J. Cohlma is liable for and shall pay to Claimant A. Sportello punitive damages in the amount of \$7,556.00, in accordance with Mastrobuono v. Shearson Lehman, 514 U.S. 52 (1995).
16. Respondents are jointly and severally liable for and shall pay to Claimant P. Sportello

compensatory damages in the amount of \$524,836.00.

17. Respondents are jointly and severally liable for and shall pay to Claimant P. Sportello attorneys' fees in the amount of \$65,253.00, in accordance with Mastrobuono v. Shearson Lehman, 514 U.S. 52 (1995), and Arizona Law 12-341.01(b).
18. Respondents are jointly and severally liable for and shall pay to Claimant P. Sportello costs and expenses in the amount of \$9,823.00.
19. Respondent A.G. Edwards is liable for and shall pay to Claimant P. Sportello punitive damages in the amount of \$561,288.00, in accordance with Mastrobuono v. Shearson Lehman, 514 U.S. 52 (1995).
20. Respondent J. Cohlma is liable for and shall pay to Claimant P. Sportello punitive damages in the amount of \$70,160.00, in accordance with Mastrobuono v. Shearson Lehman, 514 U.S. 52 (1995).
21. Respondents are jointly and severally liable for and shall pay to Claimants the sum of \$500.00, to reimburse Claimants for the filing fee previously paid to NASD Dispute Resolution.
22. Any and all relief not specifically addressed herein is denied.

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:

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|--------------------------|------------|
| Initial claim filing fee | = \$500.00 |
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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.

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|-------------------------|--------------|
| Member surcharge | = \$2,800.00 |
| Pre-hearing process fee | = \$ 750.00 |
| Hearing process fee | = \$5,000.00 |

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:

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| Two (2) Pre-hearing sessions with Panel @ \$1,200.00 | = \$2,400.00 |
| Pre-hearing conferences: January 12, 2004 1 session | |
| January 16, 2004 1 session | |
| Six (6) Hearing sessions @ \$1,200.00 | = \$7,200.00 |
| Hearing Dates: August 10, 2004 2 sessions | |
| August 11, 2004 2 sessions | |
| August 12, 2004 2 sessions | |
| Total Forum Fees | = \$9,600.00 |

1. The Panel has assessed \$9,600.00 of the forum fees against Respondent A.G. Edwards.

Fee Summary

1. Claimants are jointly and severally liable for:

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|---------------------------|---------------|
| <u>Initial Filing Fee</u> | = \$ 500.00 |
| Total Fees | = \$ 500.00 |
| <u>Less payments</u> | = \$ 1,800.00 |
| Refund Due Claimants | = \$ 1,300.00 |

As stated in the "Award" section above, Respondents are jointly and severally liable for and shall reimburse Claimants for the \$500.00 filing fee.

2. Respondent A.G. Edwards is liable for:

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|-------------------------------------|---------------|
| Member Fees | = \$ 8,550.00 |
| Forum Fees | = \$ 9,600.00 |
| Total Fees | = \$18,150.00 |
| <u>Less payments</u> | = \$ 8,550.00 |
| Balance Due NASD Dispute Resolution | = \$ 9,600.00 |

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

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|----------------------|---|--|
| Raymond Nardo | - | Public Arbitrator, Presiding Chairperson |
| Elizabeth A. Letzler | - | Public Arbitrator |
| A. George Saks, Esq. | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

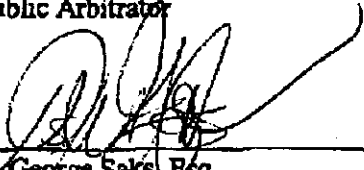
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument in which is my award.

Raymond Nardo
Public Arbitrator, Presiding Chairperson

Signature Date

Elizabeth A. Letzler
Public Arbitrator

Signature Date



A. George Saks, Esq.
Non-Public Arbitrator



Signature Date

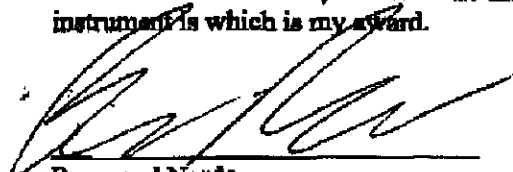
August 23, 2004
Date of Service (For NASD Dispute Resolution use only)

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| Elizabeth A. Letzler | - | Public Arbitrator |
| A. George Saks, Esq. | - | 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 in which is my award.



Raymond Nardo
Public Arbitrator, Presiding Chairperson

8/18/04

Signature Date

Elizabeth A. Letzler
Public Arbitrator

Signature Date

A. George Saks, Esq.
Non-Public Arbitrator

Signature Date

August 23, 2004

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL


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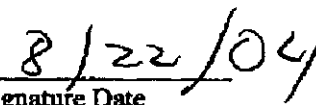
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Raymond Nardo
Public Arbitrator, Presiding Chairperson

Signature Date



Elizabeth A. Letzler
Public Arbitrator



Signature Date

A. George Saks, Esq.
Non-Public Arbitrator

Signature Date

August 23, 2004
Date of Service (For NASD Dispute Resolution use only)