

Award NASD Dispute Resolution

In the Matter of the Arbitration Between:

William P. Franzese, Sr. (Claimant) vs. A. G. Edwards & Sons, Inc. (Respondent)

Case Number: 03-07494

Hearing Site: Boston, Massachusetts

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

Claimant William P. Franzese, Sr., hereinafter referred to as "Claimant": Philip M. Giordano, Esq., Reed & Giordano, Boston, MA. Previously represented by Darren Blum, Esq., and Scott, Silver, Esq., Blum, Silver & Schwartz, LLP, Plantation, FL.

Respondent A. G. Edwards & Sons, Inc., hereinafter referred to as "Respondent": Michael Naccarato, Esq., A. G. Edwards & Sons, Inc., St. Louis, MO.

CASE INFORMATION

Statement of Claim filed on or about: October 17, 2003.

Answer to Motion for More Definite Statement filed on or about: December 29, 2003.

Claimant signed the Uniform Submission Agreement: September 12, 2003.

Answer and Motion for More Definite Statement filed by Respondent on or about: December 11, 2003.

Amended Answer and Motion for More Definite Statement filed by Respondent on or about: January 21, 2004.

Respondent signed the Uniform Submission Agreement: October 29, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: violation of industry rules including the NYSE's "Know your customer" standard (Rule 405) and NASD's customer suitability standard (Rule 2310), breach of contract, breach of fiduciary duty, common law fraud, negligence, and negligent supervision. The causes of action relate to unspecified securities.

Unless specifically admitted in its Answer and Amended Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages of approximately \$300,000.00, interest, rescission, punitive damages, the costs of this proceeding, and for such other relief as is just and proper.

Respondent requested the dismissal of the Statement of Claim in its entirety, that its Motion for a More Definite Statement be granted and that it be awarded its costs and expenses incurred in defending this action, including reasonable attorneys' fees, and for such other relief as the Panel deems proper.

OTHER ISSUES CONSIDERED AND DECIDED

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, 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. Claimant's claims are denied in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, 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:

Initial claim filing fee	= \$ 300.00
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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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, A. G. Edwards & Sons, Inc. is 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:

June 7-10, 2004 adjournment by Claimant	= \$1,125.00
June 7-9, 2005 adjournment by Claimant	= \$1,500.00

January 8-9, 2007 adjournment by Respondent = Waived
January 12, 2007 adjournment by Respondent = Waived

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:

January 8-9, 2007 adjournment by Respondent = Waived

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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 = \$ 450.00
Pre-hearing conference: November 22, 2004 1 session

Three (1) Pre-hearing sessions with Panel @ \$1,125.00 = \$3,375.00
Pre-hearing conferences: March 29, 2004 1 session
September 30, 2004 1 session
October 19, 2005 1 session

Seven (7) Hearing sessions @ \$1,125.00 per session = \$7,875.00
Hearing Dates: May 2, 2006 1 session
September 6, 2006 1 session
September 7, 2006 1 session
September 8, 2006 1 session
January 10, 2007 1 session
January 11, 2007 2 sessions

Total Forum Fees = \$11,700.00

1. The Panel has assessed \$5,850.00 of the forum fees to Claimant.
2. The Panel has assessed \$5,850.00 of the forum fees to Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 2,625.00
Forum Fees	= \$ 5,850.00
Total Fees	= \$ 8,775.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 7,350.00

2. Respondent is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 5,850.00

Total Fees	= \$11,050.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 5,850.00

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

ARBITRATION PANEL

William I. Carmen, CPA
Elliott L. Epstein
Dennis R. Surprenant

Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures



William I. Carmen, CPA
Public Arbitrator, Presiding Chairperson

2/5/07
Signature Date

Elliott L. Epstein
Public Arbitrator

Signature Date

Dennis R. Surprenant
Non-Public Arbitrator

Signature Date

February 14, 2007

Date of Service (For NASD Dispute Resolution use only)

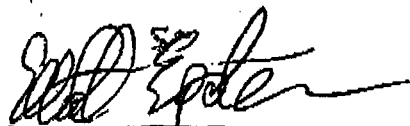
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Dennis R. Surprenant	-	Non-Public Arbitrator

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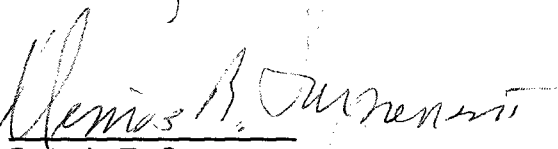
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