

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant

Grayce T. Campbell Family Limited Partnership

Case Number: 04-00736

Names of the Respondents

A.G. Edwards & Sons, Inc.

Ronald J. Koshar

Hearing Site: Pittsburgh, Pennsylvania

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

**REPRESENTATION OF PARTIES**

Claimant, Grayce T. Campbell Family Limited Partnership, hereinafter referred to as "Claimant", was represented by John E. Quinn, Esq. and Colleen P. Kartychak, Esq., Evans Portnoy Quinn & O'Connor, Pittsburgh, Pennsylvania.

Respondents, A.G. Edwards & Sons, Inc. ("A.G. Edwards") and Ronald J. Koshar ("Koshar"), hereinafter collectively referred to as "Respondents", were represented by Brent J. Burtin, Esq., A.G. Edwards & Sons, Inc., St. Louis, Missouri.

**CASE INFORMATION**

Statement of Claim filed on February 3, 2004.

Amended Statement of Claim filed on June 14, 2004.

Jill T. Sye, General Partner of the Grayce T. Campbell Family Limited Partnership, signed the Uniform Submission Agreement on March 20, 2004.

Statement of Answer and Motion for a More Definitive Statement of Claim filed by Respondents on May 11, 2004.

Answer to the Amended Statement of Claim filed on July 15, 2004.

A representative of Respondent A.G. Edwards executed an undated Uniform Submission Agreement.

Respondent Koshar signed the Uniform Submission Agreement on April 2, 2004.

Motion to Dismiss filed by Respondents on June 16, 2005.

Claimant did not file a response to Respondents' Motion to Dismiss.

**CASE SUMMARY**

Claimant, in its Statement of Claim and Amended Statement of Claim, asserted the following causes of action, among others: suitability, breach of fiduciary duty, violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law, and breach of contract. The causes of action relate to the purchase of various unspecified mutual funds.

Unless specifically admitted in their Answer and Answer to the Amended Statement of Claim,

Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim upon which relief may be granted; there is no private cause of action for violations of NASD or NYSE rules; failure to mitigate damages; authorization; Claimant's claims are barred by the doctrines of waiver, estoppel, ratification and laches; statutes of limitations; assumption of risk; contributory negligence; and comparative negligence.

### **RELIEF REQUESTED**

Claimant in its Statement of Claim requested:

Compensatory Damages	\$ 220,845.00
Punitive Damages	\$ 100,000.00
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer requested that the Arbitration Panel (the "Panel") dismiss all claims, with prejudice, assess costs against Claimant, and enter an order that Respondent Koshar's records with respect to this matter be expunged, and any such other relief as the Panel deems just and 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. Respondents shall jointly and severally pay Claimant compensatory damages in the amount of \$ 40,000.00. No interest is awarded on this amount;
2. All claims for punitive damages are denied in their entirety;
3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and,
4. Any and all relief not specifically addressed herein is denied in its entirety.

### **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

**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 person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent A.G. Edwards is a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 2,750.00</u>
Total Member Fees	= \$ 5,200.00

**Forum Fees and Assessments**

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

One (1) Pre-hearing session with Panel @ \$ 1,125.00 = \$ 1,125.00

Pre-hearing conference: October 20, 2004 1 session

Three (3) Hearing sessions @ \$ 1,125.00 = \$ 3,375.00

Hearing Dates: July 12, 2005 2 sessions

July 13, 2005 1 session

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Total Forum Fees = \$ 4,500.00

1. The Panel has assessed \$ 2,250.00 of the forum fees to Claimant.

2. The Panel has assessed \$ 2,250.00 of the forum fees jointly and severally to Respondents.

**FEE SUMMARY**

Claimant is assessed and shall pay:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 2,250.00</u>
Total Fees	= \$ 2,550.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,125.00

Respondent, A.G. Edwards, is assessed and shall pay:

<u>Member Fees</u>	<u>= \$ 5,200.00</u>
Total Fees	= \$ 5,200.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 00.00

Respondents, A.G. Edwards and Koshar, are jointly and severally assessed and shall pay:

<u>Forum Fees</u>	<u>= \$ 2,250.00</u>
Total Fees	= \$ 2,250.00

Less payments \_\_\_\_\_ = \$ 00.00

Balance Due NASD Dispute Resolution \_\_\_\_\_ = \$ 2,250.00

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

**ARBITRATION PANEL**

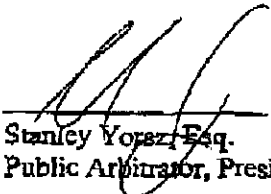
Stanley Yorsz, Esq.

Edward A. Grupp, Esq.

Gary R. Miles

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator, Panelist
- Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

  
Stanley Yorez, Esq.  
Public Arbitrator, Presiding Chairperson

7/22/05  
Signature Date

\_\_\_\_\_  
Edward A. Grupp, Esq.  
Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Timothy Shay Davis  
Non-Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

July 25, 2005  
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Stanley Yorsz, Esq.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

*Edward A. Grupp*  
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Edward A. Grupp, Esq.  
Public Arbitrator, Panelist

*July 23, 2005*  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Timothy Shay Davis  
Non-Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

*July 25, 2005*  
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Stanley Yorsz, Esq.  
Public Arbitrator, Presiding Chairperson

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Signature Date

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Edward A. Grupp, Esq.  
Public Arbitrator, Panelist

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Signature Date

  
\_\_\_\_\_  
Timothy Shay Davis  
Non-Public Arbitrator, Panelist

7-25-05  
\_\_\_\_\_  
Signature Date

July 25, 2005  
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution office use only)