

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Ronald T. Mesagna (Claimant) v. A.G. Edwards & Sons, Inc. and Eugene D'Amico
(Respondents)

Case Number: 04-00918

Hearing Site: Albany, New York

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

REPRESENTATION OF PARTIES

Claimant Ronald T. Mesagna ("Mesagna") hereinafter referred to as "Claimant": Stuart E. Finer, Esq., Finer & Giruzzi-Mosca, Utica, NY.

Respondents A.G. Edwards & Sons, Inc. ("AGE") and Eugene D'Amico ("D'Amico") hereinafter collectively referred to as "Respondents": James C. Browning, Jr., Esq., A.G. Edwards & Sons, Inc., St. Louis, MO.

CASE INFORMATION

Statement of Claim filed on or about: February 11, 2004.

Claimant signed the Uniform Submission Agreement: February 10, 2004.

Joint Statement of Answer filed by Respondents on or about: April 15, 2004.

Respondent AGE signed the Uniform Submission Agreement: April 15, 2004.

Respondent D'Amico signed the Uniform Submission Agreement: March 18, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; fraud; unsuitability; failure to supervise; violation of federal and state securities laws, NASD Rules of Fair Practice, and NYSE Rules; and negligence. The causes of action relate to various shares of common stock.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$68,413.00; disgorgement and

restitution; lost opportunity costs; attorneys' fees; expert fees and forum fees; pre-judgment and post-judgment interest; punitive damages in the amount of \$250,000.00; and such other and further relief as the Panel may deem just and proper.

Respondents requested dismissal of Claimant's claims with prejudice and costs and expenses, as well as a recommendation of expungement of Respondent D'Amico's CRD record.

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, and the testimony and evidence presented at the hearing, including post-hearing submissions, 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 sum of \$10,000.00 as compensatory damages.
2. Respondents are jointly and severally liable for and shall pay to Claimant a refund, as enumerated in Claimant's exhibit entitled Portfolio Analysis Inc. Cash Flow Summary which was accepted into evidence, estimated commissions totaling \$3,011.00 and fees and margin interest totaling \$4,251.00, plus interest at a rate of 9% accruing from January 1, 2003 until the date of this award.
3. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$300.00 to reimburse him for the non-refundable filing fee previously paid to NASD Dispute Resolution.
4. 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

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 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

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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00
Pre-hearing conference: November 1, 2004 1 session

One (1) Pre-hearing session with Panel @ \$1,125.00 = \$1,125.00
Pre-hearing conference: June 29, 2004 1 session

Four (4) Hearing sessions @ \$1,125.00 = \$4,500.00
Hearing Dates: December 7, 2004 2 sessions
December 8, 2004 2 sessions

Total Forum Fees = \$6,075.00

1. The Panel has assessed \$6,075.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	= \$1,425.00
Refund Due Claimant	= \$1,125.00

As stated in the Award section above, Respondents are jointly and severally liable for and shall pay to Claimant \$300.00 to reimburse him for the non-refundable filing fee previously paid to NASD Dispute Resolution.

2. Respondent AGE is solely liable for:

Member Fees	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$6,075.00
Total Fees	= \$6,075.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$6,075.00

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

ARBITRATION PANEL

Michael A. Orticelle	-	Public Arbitrator, Presiding Chairperson
W. Bruce Newman	-	Public Arbitrator
Theodor Brown	-	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 which is my award.



Michael A. Orticelle
Public Arbitrator, Presiding Chairperson

Signature Date

W. Bruce Newman
Public Arbitrator

Signature Date

Theodor Brown
Non-Public Arbitrator

Signature Date

January 11, 2005
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

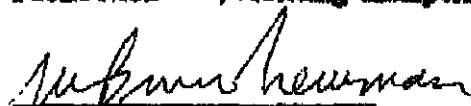
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W. Bruce Newman	-	Public Arbitrator
Theodor Brown	-	Non-Public Arbitrator

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Michael A. Oiticelle
Public Arbitrator, Presiding Chairperson

Signature Date



W. Bruce Newman
Public Arbitrator



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