

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

1991 Francis C. Bourne, Sr. Trust for Barbara Lutz and Others f/k/a Francis C. Bourne, Sr. Trust
FBO Barbara Lutz & Others UAD 12/19/1989 (Claimant) v. A.G. Edwards & Sons, Inc.
(Respondent)

Case Number: 04-01964

Hearing Site: Hartford, Connecticut

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

Claimant 1991 Francis C. Bourne, Sr. Trust for Barbara Lutz and Others f/k/a Francis C. Bourne, Sr. Trust FBO Barbara Lutz & Others UAD 12/19/1989 hereinafter referred to as "Claimant": Thomas D. Mauriello, Esq., Law Offices of Thomas D. Mauriello, San Francisco, CA.

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

CASE INFORMATION

Statement of Claim filed on or about: March 22, 2004.

Amended Statement of Claim filed on or about: April 1, 2004.

Claimant signed the Uniform Submission Agreement: February 19, 2004.

Statement of Answer filed by Respondent on or about: May 27, 2004.

Answer to Claimant's Amended Statement of Claim filed by Respondent on or about: November 1, 2004.

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

CASE SUMMARY

Claimant asserted the following causes of action: unsuitable recommendations; negligence; breach of contract; breach of fiduciary duty; and negligent supervision. The causes of action relate to the sale of a money market fund and Georgia Power Capital Trust bonds and the purchase of shares of Automatic Data Processing, Cardinal Health, Compaq Computer, Enron, Gillette, B.F. Goodrich, Hannaford Bros., Harley Davidson, Lucent Technologies, MCI Worldcom, Pfizer, Rite Aid, Siebel, Cisco, Disney, EMC Corp., Medtronic, Motorola, Williams, Ericsson, General Electric, Allied Capital, AOL, Cable & Wireless, Metromedia Fiber Network,

Nortel Networks, Qwest Communications, Symantec, Copper mountain, Deutsche Telekom, Harmonic, Inc., PSI Net, Palm, Agile Software, Biomet Inc., and Maverick Tube Corp.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$223,757.84; commissions and transaction fees; prejudgment interest; punitive damages; costs, including reasonable attorneys' fees; and such other relief as the arbitrators may find appropriate under the circumstances.

Respondent requested that the Statement of Claim be dismissed with prejudice; costs; and any other and further relief deemed appropriate under the facts and circumstances of the case.

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for and shall pay to Claimant compensatory damages in the amount of \$110,737.44.
2. Respondent is liable for and shall pay to Claimant \$300.00 to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.
3. 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 person 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 Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: September 15, 2004 1 session	
Three (3) Hearing sessions @ \$1,125.00	= \$3,375.00
Hearing Dates: April 19, 2005 3 sessions	
Total Forum Fees	= \$4,500.00

1. The Panel has assessed \$4,500.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

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

As stated in the "Award" section above, Respondent is liable for and shall reimburse Claimant for the \$300.00 filing fee.

2. Respondent is solely liable for:

Member Fees	= \$5,200.00
<u>Forum Fees</u>	= \$4,500.00
Total Fees	= \$9,700.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$4,500.00

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

NASD REGULATION

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ARBITRATION PANEL

Hilary B. Miller, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert Titus	-	Public Arbitrator
Dale S. Cronnell	-	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.



Hilary B. Miller, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Robert Titus
Public Arbitrator

Signature Date

Dale S. Cronnell
Non-Public Arbitrator

Signature Date

April 22, 2005

Date of Service (For NASD Dispute Resolution use only)

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ARBITRATION PANEL

Hilary B. Miller, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert Titus	-	Public Arbitrator
Dale S. Cronnell	-	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~~ my award.

Hilary B. Miller, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Robert Titus
Robert Titus
Public Arbitrator

April 21, 2005
Signature Date

Dale S. Cronnell
Non-Public Arbitrator

Signature Date

April 22, 2005

Date of Service (For NASD Dispute Resolution use only)

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ARBITRATION PANEL

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Robert Titus	-	Public Arbitrator
Dale S. Cronnell	-	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.

Hilary B. Miller, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Robert Titus
Public Arbitrator

Signature Date



Dale S. Cronnell
Non-Public Arbitrator

4/24/05

Signature Date

April 22, 2005
Date of Service (For NASD Dispute Resolution use only)