

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Grace M. Marron

and

Case Number: 04-02997  
Hearing Site: Houston, Texas

Names of Respondents

A.G. Edwards & Sons, Inc.,  
Robert Louis Rogers,  
James W. Little, and  
Patrick Pierre Diorio

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**NATURE OF DISPUTE**

Customer v. Member Firm and Associated Persons

**REPRESENTATION OF PARTIES**

Grace M. Marron ("**Claimant**") was represented by J. Ronald Vercher, Esq., Klitsas & Vercher, P.C., Houston, Texas.

A.G. Edwards & Sons, Inc. ("**A.G. Edwards**"), Robert Louis Rogers ("**Rogers**") and James W. Little ("**Little**") were represented by Jeffrey W. Coverdell, Esq., A.G. Edwards & Sons, Inc., St. Louis, Missouri.

Patrick Pierre Diorio ("**Diorio**") represented himself.

**CASE INFORMATION**

The Statement of Claim was filed on or about April 22, 2004. The Submission Agreement of Claimant, Grace M. Marron, was signed on or about May 5, 2004. Claimant's Response to Respondents' Motion to Dismiss Claims Previously Settled was filed on or about September 2, 2004.

The Joint Statement of Answer and Motion to Dismiss Claims Previously Settled was filed by Respondents, A.G. Edwards & Sons, Inc., Robert Louis Rogers and James W. Little, on or about August 19, 2004. The Submission Agreement of Respondent, A.G. Edwards & Sons, Inc., was signed on or about July 15, 2004. The Submission Agreement of

Respondent, Robert Louis Rogers, was signed on or about July 28, 2004. The Submission Agreement of Respondent, James W. Little, was signed on or about July 28, 2004.

The Statement of Answer and Motion to Dismiss Claimants Previously Settled was filed by Respondent, Patrick Pierre Diorio, on or about August 16, 2004. The Submission Agreement of Respondent, Patrick Pierre Diorio, was signed on or about August 16, 2005.

### **CASE SUMMARY**

Claimant asserted the following causes of action: negligence, failure to supervise, breach of fiduciary duty, misrepresentations, unauthorized trading, and churning. The causes of action related to the recommendation and purchase of American Skandia Advisor Funds, class B shares, and unspecified technology stocks. Claimant alleged that Respondent Diorio churned her account and he was unsupervised by A.G. Edwards and Rogers. Claimant also alleged that she was induced to sign the release to settle her claims against Respondents.

Unless specifically admitted in their Answer, Respondents, A.G. Edwards, Rogers and Little, denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim failed to state a claim upon which relief can be granted and it should be dismissed; Claimant at all times retained authority for all transactions in her account; Claimant authorized the alleged conduct which occurred in connection with her account with Respondent A.G. Edwards about which she now complains, and her claims are barred; Claimant has waived and/or is estopped from asserting claims against Respondents by virtue of her own conduct in dealing with A.G. Edwards; Claimant is barred by the doctrines of ratification, waiver, estoppel, and laches; and Claimant failed to mitigate her damages.

Unless specifically admitted in his Answer, Respondent, Diorio, denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant's April 30, 2002, settlement with Respondents was a written, signed and legally binding agreement and therefore any claims which Claimant now attempts to assert for any matter occurring on or prior to April 30, 2002, is barred by law and should be immediately dismissed.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$200,000.00
Punitive/Exemplary Damages	\$200,000.00
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified

Other Monetary Relief

Unspecified

Respondents, A.G. Edwards, Rogers and Little, requested that the claims asserted against them be denied in their entirety and that they be awarded their costs, attorneys' fees and to expunge the claims alleged against Respondents, Rogers and Little, from their CRD records.

Respondent, Diorio, requested that the claims asserted against him be denied in their entirety and that he be awarded his costs.

**OTHER ISSUES CONSIDERED & DECIDED**

On or about October 27, 2004, The Panel denied Respondents' Motions to Dismiss Claimant Previously Settled.

The Panel unanimously rules to grant the expungement requests for Respondents, Robert Louis Rogers and James W. Little. Pursuant to Rule 2130, the Panel affirmatively finds that the claim, allegation, or information is clearly erroneous.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

**AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimant's claims, each and all, are hereby denied and dismissed in their entirety;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondents, Robert Louis Rogers's and James W. Little's, registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondents, Robert Louis Rogers and James W. Little, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and

- 4.) Any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain the non-refundable filing fee 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. In this matter, the member firm is A.G. Edwards & Sons, Inc.

Member surcharge = \$ 1,700.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$ 2,750.00

#### **Forum Fees and Assessments**

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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 x \$450.00 = \$ 450.00  
Pre-hearing conference: October 27, 2005 1 session

One (1) Pre-hearing session with Panel x \$1,125.00 = \$ 1,125.00  
Pre-hearing conference: April 25, 2005 1 session

Four (4) Hearing sessions x \$1125.00 = \$ 4,500.00  
Hearing Dates: June 21, 2005 2 sessions  
June 22, 2005 2 sessions

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Total Forum Fees = \$ 6,075.00

The Arbitration Panel has assessed \$6,075.00 of the forum fees to A.G. Edwards & Sons, Inc.

**Fee Summary**

Claimant, Grace M. Marron, is liable for:

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

Respondent, A.G. Edwards & Sons, Inc., is liable for:

<u>Member Fees</u>	= \$ 5,200.00
<u>Forum Fees</u>	= \$ 6,075.00
<u>Total Fees</u>	= \$11,275.00
<u>Less payments</u>	= \$ 5,200.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 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 S. Wilk - Public Arbitrator, Presiding Chair  
David C. Redford, JD - Public Arbitrator  
J. Michael Watson - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Michael S. Wilk  
Michael S. Wilk  
Public Arbitrator, Presiding Chair

July 1, 2005  
Signature Date

/s/ David C. Redford, JD  
David C. Redford, JD  
Public Arbitrator

July 5, 2005  
Signature Date

/s/ J. Michael Watson  
J. Michael Watson  
Non-Public Arbitrator

June 30, 2005  
Signature Date

July 1, 2005  
Date of Service (For NASD office use only)

**ARBITRATION PANEL**

Michael S. Wilk - Public Arbitrator, Presiding Chair  
David C. Redford, JD - Public Arbitrator  
J. Michael Watson - Non-Public Arbitrator

Concurring Arbitrators:

Michael Wilk

Michael S. Wilk  
Public Arbitrator, Presiding Chair

July 1, 2005  
Signature Date

David C. Redford, JD  
Public Arbitrator

Signature Date

J. Michael Watson  
Non-Public Arbitrator

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Public Arbitrator, Presiding Chair  
*David C. Redford*  
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David C. Redford, JD  
Public Arbitrator

\_\_\_\_\_  
Signature Date  
*7-5-05*  
\_\_\_\_\_  
Signature Date

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J. Michael Watson  
Non-Public Arbitrator

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Signature Date

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