

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Mary L. Walsh-Durant IRA and Merrimac Trust U/A DTD 18-June-1996, Mary L. Walsh-Durant and Charles W. Durant, Trustees (Claimants) v. A.G. Edwards & Sons, Inc. and Daniel R. Santanello (Respondents)

Case Number: 04-03938

Hearing Site: Boston, Massachusetts

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

REPRESENTATION OF PARTIES

Claimants Mary L. Walsh-Durant IRA ("Walsh-Durant IRA") and Merrimac Trust U/A DTD 18-June-1996, Mary L. Walsh-Durant and Charles W. Durant, Trustees ("Merrimac Trust") hereinafter collectively referred to as "Claimants": Daniel J. MacDonald, JD, CPA, Peabody, MA.

Respondents A.G. Edwards & Sons, Inc. ("AGE") and Daniel R. Santanello ("Santanello") hereinafter collectively referred to as "Respondents": Michael Naccarato, Esq., A.G. Edwards & Sons, Inc., St. Louis, MO.

CASE INFORMATION

Statement of Claim filed on or about: June 2, 2004.

Claimants signed the Uniform Submission Agreement: May 7, 2004.

Joint Statement of Answer filed by Respondents on or about: July 29, 2004.

Respondent AGE signed the Uniform Submission Agreement: July 29, 2004.

Respondent Santanello signed the Uniform Submission Agreement: July 7, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; misrepresentation; failure to advise and manage accounts in a prudent manner; suitability; and failure to supervise. The causes of action relate to 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

Claimants requested compensatory damages in the amount of \$131,628.00; well-managed account damages in the amount of \$31,795.00; punitive damages; attorneys' fees; and other costs necessary to bring this action.

Respondents requested an order from the Panel dismissing all claims with prejudice; costs and expenses; and such other relief as the Arbitrators deem appropriate. Respondent Santanello also requested an order from the Arbitrators expunging all references to this arbitration from his record with the "CRD".

OTHER ISSUES CONSIDERED AND DECIDED

Claimant Charles Durant, Trustee, Merrimac Trust U/A did not appear at the hearing in this matter due to medical reasons.

At the hearing in this matter, Respondents filed a Motion to Dismiss. The Panel reserved judgment until the close of the hearing.

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. Claimants' claims are denied in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Daniel R. Santanello's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Daniel R. Santanello must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive. Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents. Pursuant to Rule 2130 of the NASD Code of Arbitration Procedure, the arbitration panel has made the following affirmative findings of fact: The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and the claim, allegation, or information is false.
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: October 7, 2004 1 session

Four (4) Hearing sessions @ \$1,125.00 = \$4,500.00
Hearing Dates: January 4, 2005 2 sessions
January 5, 2005 2 sessions

Total Forum Fees = \$5,625.00

1. The Panel has assessed \$2,812.50 of the forum fees against Claimants.
2. The Panel has assessed \$2,812.50 of the forum fees against AGE.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee = \$ 300.00
Forum Fees = \$2,812.50

Total Fees = \$3,112.50
Less payments = \$1,425.00
Balance Due NASD Dispute Resolution = \$1,687.50

2. Respondent AGE is solely liable for:

Member Fees = \$5,200.00
Forum Fees = \$2,812.50

Total Fees = \$8,012.50
Less payments = \$5,200.00

Balance Due NASD Dispute Resolution

= \$2,812.50

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

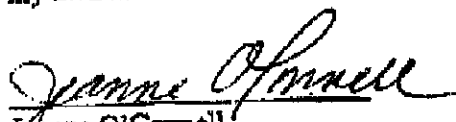
ARBITRATION PANEL

Jeanne O'Connell
Jeffrey G. Sommers
William J. Driscoll

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- 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.



Jeanne O'Connell
Public Arbitrator, Presiding Chairperson

Signature Date

Jeffrey G. Sommers
Public Arbitrator

Signature Date

William J. Driscoll
Non-Public Arbitrator

Signature Date

January 14, 2005
Date of Service (For NASD Dispute Resolution use only)

NASD REGULATION

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