

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimants

Glenda Joyce Boettcher, Beverly A. Robertson,
Gwendolyn R. Johnson, Ernie Lee Sayre and Jerry Hunter

v.

04-04215

Louisville, Kentucky

Respondents

A.G. Edwards & Sons, Inc., and Byron Lee Holley

NATURE OF DISPUTE

Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

Glenda Joyce Boettcher, Beverly A. Robertson, Gwendolyn R. Johnson, Ernie Lee Sayre and Jerry Hunter, ("**Claimants**") were represented by Albert R. Hausauer, Jr., Esq., of the Law Office of A.R. Hausauer, Jr., Henderson, Nevada and R. Craig Zafis, Esq., San Diego, California.

A.G. Edwards & Sons, Inc. ("**AGE**") and Byron Lee Holley ("**Holley**"), hereinafter collectively referred to as "**Respondents**," were represented by Anita M. Britton, Esq. and Amy C. Johnson, Esq., of Stoll, Kennon & Park, LLP, Lexington, Kentucky.

CASE INFORMATION

The Statement of Claim was filed on or about June 11, 2004. The Submission Agreement of Claimant, Glenda Joyce Boettcher, was signed on or about June 6, 2004. The Submission Agreement of Claimant, Beverly A. Robertson, was signed on or about June 6, 2004. The Submission Agreement of Claimant, Gwendolyn R. Johnson, was signed on or about June 6, 2004. The Submission Agreement of Claimant, Ernie Lee Sayre, was signed on or about June 4, 2004. The Submission Agreement of Claimant, Jerry Hunter was signed on or about June 4, 2004.

The Statement of Answer was filed jointly by Respondents, A.G. Edwards & Sons, Inc., and Byron Lee Holley, on or about August 6, 2004. The Submission Agreement of Respondent, A.G. Edwards & Sons, Inc., was signed on or about August 6, 2004, by Stephen G. Sneeringer, Senior Vice President and Counsel, A.G. Edwards & Sons, Inc. The Submission Agreement of Respondent, Byron Lee Holley, was signed on or about July 20, 2004.

Respondents filed a Motion to Sever on or about July 29, 2004. Claimants filed an Opposition to Respondents' Motion to Sever on or about August 18, 2004.

Respondents filed a Motion for a More Definite Statement of Claim on or about March 11, 2005. Claimants filed an Opposition to Respondents' Motion for a More Definite Statement of Claim on or about March 30, 2005.

Claimants filed an Amended Statement of Claim on or about April 15, 2005.

Respondents filed an Answer to Claimants' Amended Statement of Claim on or about June 1, 2005.

Claimants filed an Emergency Motion for Severance of Gwendolyn Johnson on or about January 31, 2006. Respondents filed a Response to Claimants' Emergency Motion for Severance on or about January 31, 2005.

CASE SUMMARY

Claimants asserted causes of action including the following: breach of fiduciary duty, negligence, breach of contract, violation of NASD and NYSE rules, common law fraud and misrepresentation. The causes of action related to the suitability of investments made for Claimants after each had opened IRA rollover accounts at AGE. Claimants alleged that Respondents recommended an aggressive investment strategy, which was over-concentrated in equities, specifically Texas Instruments stock. Claimants stated that this strategy was unsuitable, it failed to protect the value of their accounts and it led to losses in their accounts. Claimants alleged that losses suffered in their respective accounts were caused by the acts and omissions of AGE and Holley and by AGE's failure to supervise Holley's actions.

Respondents denied the allegations set forth in the Statement of Claim and asserted defenses including the following: Claimants, at all times, retained authority for all transactions in their accounts; Claimants' claims are barred because they authorized the alleged conduct which occurred in connection with their accounts; Claimants' claims are barred, in full or in part, by applicable statutes of limitation and/or prescription; AGE did not know, and in the exercise of reasonable care could not have known, of any alleged violations of state securities statutes by Holley, and at all times acted in good faith and did not directly or indirectly induce the alleged acts which may be alleged to constitute a cause of action under the state securities statutes; Respondents did not recommend securities that were unsuitable for Claimants' accounts in light of their objectives; Claimants have alleged no activity or specific conduct which resulted in a breach of contract by Respondents; Respondents performed all terms and conditions of any contract entered into between AGE and Claimants, and therefore, Claimants' claims should be dismissed.

RELIEF REQUESTED

Claimant, Glenda Joyce Boettcher, requested an award of \$70,000 in compensatory damages. Claimant, Beverly A. Robertson, requested an award of \$55,000 in compensatory damages. Claimant, Gwendolyn R. Johnson, requested an award of \$215,000 in compensatory damages. Claimant, Ernie Lee Sayre, requested an award of \$690,000 in compensatory damages. Claimant, Jerry Hunter, requested an award of \$150,000 in compensatory damages. All Claimants collectively requested interest, costs, attorneys' fees, punitive damages of \$1,360,000, plus and any other relief the panel deemed just and equitable.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

On or about September 1, 2004, NASD Dispute Resolution preliminarily denied Respondents' Motion to Sever pursuant to Rule 10314(d)(2) of NASD Code of Arbitration Procedure.

On or about January 14, 2005, the panel granted Respondents' Motion for a More Definite Statement of Claim.

On or about February 2, 2006, the panel denied Claimants' Emergency to Sever.

At the final arbitration hearing Claimants renewed their request to sever Claimant, Gwendolyn R. Johnson, due to her bankruptcy. After deliberation, the Panel granted Claimants' Motion to Sever.

At the conclusion of Claimants' case-in-chief, Respondents made an oral Motion for Directed Verdict and for Dismissal of Claimants' claims. After deliberation, the Panel denied Respondents' oral Motions.

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 originals 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. Claimants, Glenda Joyce Boettcher's, Beverly A. Robertson's, Ernie Lee Sayre's and Jerry Hunter's claims, each and all, are hereby denied and dismissed with prejudice;

2. Respondents will bear all costs of the court reporter present at the final arbitration hearing;
3. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, including punitive damages, are denied with prejudice; and
4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys' fees.

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 = \$ 500

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. In this matter, the member firm is A.G. Edwards & Sons, Inc.

Member surcharge = \$ 2,800
Pre-hearing process fee = \$ 750
Hearing process fee = \$ 5,000

Adjournment Fees

Adjournments granted during these proceedings:

July 26-29 and August 2-3, 2005, Adjournment requested by Claimants
(Fee waived by the Panel) = \$ 1,200

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) Panel Decision on a discovery-related motion on the papers x \$600.00

Claimants' submitted a Motion to Compel = \$ 600

Two (2) Pre-hearing sessions with Panel x \$ 1,200 = \$ 2,400

Pre-hearing conferences: October 29, 2004 1 session
 April 14, 2005 1 session

Eleven (11) Hearing sessions with Panel x \$ 1,200 = \$ 13,200

Hearing Dates: February 13, 2006 2 sessions
 February 14, 2006 2 sessions
 February 15, 2006 2 sessions
 February 16, 2006 2 sessions
 February 17, 2006 2 sessions
 February 21, 2006 1 session

Total Forum Fees = \$ 16,200

The Arbitration Panel has assessed \$ 8,100 of the forum fees jointly and severally to Claimants, Glenda Joyce Boettcher, Beverly A. Robertson, Ernie Lee Sayre and Jerry Hunter.

The Arbitration Panel has assessed \$ 8,100 of the forum fees jointly and severally to A.G. Edwards & Sons, Inc., and Byron Lee Holley.

FEE SUMMARY

Claimants, Glenda Joyce Boettcher, Beverly A. Robertson, Ernie Lee Sayre and Jerry Hunter, are jointly and severally liable for:

Initial Filing Fee	= \$ 500
Forum Fees	= \$ 8,100
Total Fees	= \$ 8,600
Less payments	= \$ 1,700
Balance Due NASD Dispute Resolution	= \$ 6,900

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

<u>Member Fees</u>	= \$ 8,550
<u>Total Fees</u>	= \$ 8,500
<u>Less payments</u>	= \$ 8,500
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0

Respondents, A.G. Edwards & Sons, Inc., and Byron Lee Holley, are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 8,100
<u>Total Fees</u>	= \$ 8,100
<u>Less payments</u>	= \$ 0
<u>Balance Due NASD Dispute Resolution</u>	= \$ 8,100

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

ARBITRATION PANEL

R. Van Young, Esq. - Public Arbitrator, Presiding Chair
Allan Weiss, J.D. - Public Arbitrator
John R. Michael, II - Non-Public Arbitrator

Concurring Arbitrators:

R. Van Young, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Allan Weiss, J.D.
Public Arbitrator

Signature Date

John R. Michael, II
Non-Public Arbitrator

Signature Date

3/8/06
Date of Service (NASD use only)

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

Member Fees	= \$ 8,550
Total Fees	= \$ 8,500
Less payments	= \$ 8,500
Balance Due NASD Dispute Resolution	= \$ 0

Respondents, A.G. Edwards & Sons, Inc., and Byron Lee Holley, are jointly and severally liable for:

Forum Fees	= \$ 8,100
Total Fees	= \$ 8,100
Less payments	= \$ 0
Balance Due NASD Dispute Resolution	= \$ 8,100

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John R. Michael, II - Non-Public Arbitrator

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R. Van Young, Esq.
Public Arbitrator, Presiding Chair

3-8-06
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Public Arbitrator

Signature Date

John R. Michael, II
John R. Michael, II
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Respondents, A.G. Edwards & Sons, Inc., and Byron Lee Holley, are jointly and severally liable for:

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Public Arbitrator, Presiding Chair

Allan Weiss, J.D.
Public Arbitrator

John R. Michael, II
Non-Public Arbitrator

2/8/06
Date of Service (NASD use only)

Signature Date

3/7/06
Signature Date

Signature Date

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

Member Fees	= \$ 8,550
Total Fees	= \$ 8,500
Less payments	= \$ 8,500
Balance Due NASD Dispute Resolution	= \$ 0

Respondents, A.G. Edwards & Sons, Inc., and Byron Lee Holley, are jointly and severally liable for:

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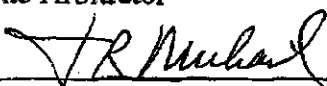
Concurring Arbitrators:

R. Van Young, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Allan Weiss, J.D.
Public Arbitrator

Signature Date


John R. Michael, II
Non-Public Arbitrator

3-7-06
Signature Date

3/8/06
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