
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants
Thomas and Phyllis Cote

Case Number: 05-00322

Names of the Respondents
A.G. Edwards & Sons, Inc.
Charles Pascarella, Jr.

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Thomas and Phyllis Cote, hereinafter referred to as "Claimants": Lonnie K. Martens, Esq., The Martens Law Firm, Jupiter, Florida.

For A.G. Edwards & Sons, Inc. ("A.G. Edwards") and Charles Pascarella, Jr. ("Pascarella"), hereinafter referred to as "Respondents": Sara Soto, Esq., Fowler White Burnett P.A., Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: January 20, 2005.

Claimants signed the Uniform Submission Agreement: January 13, 2005.

Statement of Answer filed by Respondents on or about: March 29, 2005.

Respondent A.G. Edwards signed the Uniform Submission Agreement: February 18, 2005.

Respondent Pascarella signed the Uniform Submission Agreement: March 22, 2005.

Motion for Leave to Amend the Statement of Answer filed by Respondents on or about: February 17, 2006.

Amended Statement of Answer filed by Respondents on or about: March 9, 2006.

CASE SUMMARY

Claimants asserted the cause of action of breach of fiduciary duty. The cause of action relates to the purchase of various unspecified stocks and the inappropriate switch of an unspecified annuity in Claimants' accounts.

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 \$1,500,000.00, pre-judgment interest, costs and such other relief as this Panel deemed necessary and proper.

Respondents requested that the Statement of Claim be dismissed in its entirety, with prejudice and an award of costs and any other and further relief as this Panel deemed appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

On or about March 8, 2006, the Panel issued an Order that granted Respondents' Motion for Leave to Amend the Statement of Answer.

During the evidentiary hearing for this matter Respondent made an ore tenus Motion to Dismiss. The Panel denied the motion.

The parties have agreed that the Award in this matter may be entered in counterpart copies or that a signed handwritten Award may be entered.

AWARD

After considering the pleadings, 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:

Respondents are found not liable and Claimants' claims are denied in their entirety.

Any and all claims for relief not specifically addressed herein, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 500.00
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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 is a party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$5,000.00</u>
Total Member Fees	= \$8,550.00

Adjournment Fees

No requests for adjournments were filed in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No cancellation fees were assessed in this matter.

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

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 the Panel @ \$1,200.00	= \$ 1,200.00
Pre-hearing conference: June 2, 2005 1 session	
Eight (8) Hearing sessions with the Panel @ \$1,200.00	= \$ 9,600.00
Hearing Dates: March 14, 2006 2 sessions	
March 15, 2006 2 sessions	
March 16, 2006 2 sessions	
March 17, 2006 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$10,800.00

The Panel has assessed \$5,400.00 of the forum fees to jointly and severally to Claimants.

The Panel has assessed \$5,400.00 of the forum fees to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 5,400.00
<hr/> Total Fees	<hr/> = \$ 5,900.00
Less payments	= \$ 3,200.00
<hr/> Balance Due NASD Dispute Resolution	<hr/> = \$ 2,700.00

Respondent A.G. Edwards is solely liable for:

Member Fees	= \$ 8,550.00
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Forum Fees	= \$ 5,400.00
Total Fees	= \$ 13,950.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 5,400.00

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

ARBITRATION PANEL

<i>Kenneth E. Merklen, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>David Rich</i>	-	<i>Public Arbitrator</i>
<i>Sheri J. Caplan, Esq.</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Kenneth E. Merklen, Esq.
Public Arbitrator, Presiding Chairperson

03/20/06
Signature Date

/s/
David Rich
Public Arbitrator

03/20/06
Signature Date

/s/
Sheri J. Caplan, Esq.
Non-Public Arbitrator

3/20/06
Signature Date

3/21/06
Date of Service (For NASD Dispute Resolution office use only)

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March 20, 2006
Signature Date

David Rich
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Signature Date

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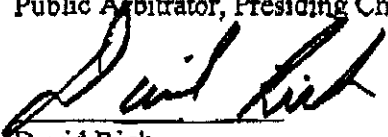
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