

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Catherine V. O'Hagan (Claimant) v. A.G. Edwards & Sons, Inc. and J. Howard Carter (Respondents)

Case Number: 05-00375

Hearing Site: Newark, New Jersey

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

REPRESENTATION OF PARTIES

Claimant Catherine V. O'Hagan hereinafter referred to as "Claimant": Douglas S. Crawford, Esq., Kelly & Brennan, P.C., Wall, NJ.

Respondents A.G. Edwards & Sons, Inc. ("A.G. Edwards") and J. Howard Carter ("Carter") hereinafter collectively referred to as "Respondents": Dennis J. Capriglione, Esq., A.G. Edwards & Sons, Inc., St. Louis, MO.

CASE INFORMATION

Statement of Claim filed on or about: January 24, 2005.

Claimant signed the Uniform Submission Agreement: January 21, 2005.

Joint Statement of Answer filed on or about: March 13, 2005.

Respondent A.G. Edwards signed the Uniform Submission Agreement: March 14, 2005.

Respondent Carter signed the Uniform Submission Agreement: February 16, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability; misrepresentation; failure to adequately train and/or supervise; respondeat superior; and breach of industry, fiduciary, regulatory, statutory and supervisory obligations. The causes of action relate to two variable annuity policies.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$83,061.50; punitive damages; costs, disbursements and reasonable attorneys' fees incurred in this action, pursuant to NASD Rule 10215; and such other and further relief as the Panel deems just and proper.

Respondents requested that the Panel dismiss all claims of Claimant, with prejudice, assess the costs of this proceeding against the Claimant, and enter an Order that Mr. Carter's permanent records with respect to this matter be expunged, and such other relief deemed just and proper under the circumstances.

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, 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. Claimant's claims are hereby dismissed in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Carter's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Carter 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 claim, allegation, or information is factually impossible or clearly erroneous;

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 = \$ 225.00

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	= \$ 1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 1,700.00
Total Member Fees	= \$ 3,550.00

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 @ \$750.00	= \$ 750.00
Pre-hearing conference: May 20, 2005 1 session	
Five (5) Hearing sessions @ \$750.00 per session	= \$ 3,750.00
Hearing Dates: October 5, 2005 2 sessions	
October 6, 2005 3 sessions	

Total Forum Fees = \$ 4,500.00

1. The Panel has assessed \$4,500.00 of the forum fees to A.G. Edwards & Sons, Inc.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Total Fees	= \$ 225.00
Less payments	= \$ 975.00
Refund Due Claimant	= \$ 750.00

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

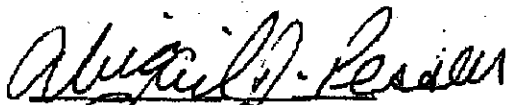
Member Fees	= \$ 3,550.00
Forum Fees	= \$ 4,500.00
Total Fees	= \$ 8,050.00
Less payments	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 4,500.00

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

ARBITRATION PANEL

Abigail J. Pessen, Esq.	-	Public Arbitrator, Presiding Chairperson
David C. Carter	-	Public Arbitrator
Patrick J. Howley, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Abigail J. Pessen, Esq.
Public Arbitrator, Presiding Chairperson

10/19/05
Signature Date

David C. Carter
Public Arbitrator

Signature Date

Patrick J. Howley, Esq.
Non-Public Arbitrator

Signature Date

OCTOBER 26, 2005
Date of Service (For NASD Dispute Resolution use only)

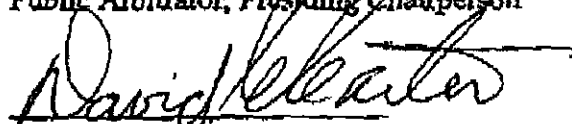
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Signature Date



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Public Arbitrator

10-19-05

Signature Date

Patrick J. Howley, Esq.
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Signature Date



Patrick J. Howley, Esq.
Non-Public Arbitrator

10-20-05

Signature Date

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