

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

A.G. Edwards & Sons, Inc. (Claimant) vs. Dr. Frank Michael Lobacz (Respondent)

Case Number: 05-01544

Hearing Site: New York, New York

Nature of the Dispute: Member vs. Customer

REPRESENTATION OF PARTIES

Claimant A.G. Edwards & Sons, Inc. ("Claimant"): Brent J. Burtin, Esq., In-House Counsel,
A.G. Edwards & Sons, Inc., St. Louis, MO.

Respondent Dr. Frank Michael Lobacz ("Respondent"): Barry V. Pittman, Esq., Law Office of
Barry Pittman, Esq., Bay Shore, NY.

CASE INFORMATION

Statement of Claim filed on or about: March 21, 2005.

Answer to Counterclaim filed on or about: April 21, 2005.

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

Statement of Answer and Counterclaim filed by Respondent on or about: March 31, 2005.

Respondent signed the Uniform Submission Agreement: April 4, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract; indebtedness; and negligence. The causes of action relate to a margin agreement in connection with stock trades in Elan Corporation.

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

In his Counterclaim, Respondent asserted the following causes of action: negligence; breach of contract; and failure to follow instructions.

Unless specifically admitted in its Answer, Claimant denied the allegations made in the Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$545,261.38; interest at the maximum legal rate; costs; expenses; attorneys' fees; and for such other relief as the Panel may deem just and proper.

Respondent requested dismissal of the Statement of Claim in its entirety.

In his Counterclaim, Respondent requested an award of compensatory damages in the amount of \$1,200,000.00; interest; and attorneys' fees.

Claimant requested that the Counterclaim be dismissed in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be entered 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. Respondent is liable for and shall pay to the Claimant compensatory damages in the amount of \$450,000.00.
2. Any and all relief not specifically addressed herein 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	= \$ 1,250.00
Counterclaim filing fee	= \$ 500.00

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	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	= \$ 5,000.00
Total Member fees	= \$ 8,000.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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 a single arbitrator @ \$450.00 per session = \$ 450.00
Pre-hearing conference: August 11, 2005 1 session

One (1) Pre-hearing session with Panel @ \$1,200.00 per session = \$ 1,200.00
Pre-hearing conference: June 29, 2005 1 session

Six (6) Hearing sessions @ \$1,200.00 per session = \$ 7,200.00
Hearing Dates: January 4, 2006 2 sessions
January 5, 2006 2 sessions
January 6, 2006 2 sessions

Total Forum Fees = \$ 8,850.00

1. The Panel has assessed \$4,425.00 of the forum fees against Claimant.
2. The Panel has assessed \$4,425.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 1,250.00
Member Fees	= \$ 8,000.00
<u>Forum Fees</u>	= \$ 4,425.00
Total Fees	= \$ 13,675.00
<u>Less payments</u>	= \$ 9,450.00
Balance Due NASD Dispute Resolution	= \$ 4,225.00

2. Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$ 4,425.00
Total Fees	= \$ 4,925.00
<u>Less payments</u>	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 3,225.00

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

ARBITRATION PANEL

John F. Duane, Esq.	-	Public Arbitrator, Presiding Chairperson
Cheryl H. Agris, PhD	-	Public Arbitrator
Judith E. Gross, Esq.	-	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.

John F. Duane
John F. Duane, Esq.
Public Arbitrator, Presiding Chairperson

1/16/06
Signature Date

Cheryl H. Agris, PhD
Cheryl H. Agris, PhD
Public Arbitrator

Signature Date

Judith E. Gross, Esq.
Judith E. Gross, Esq.
Non-Public Arbitrator

Signature Date

January 18, 2006
Date of Service (For NASD Dispute Resolution use only)

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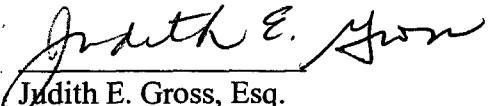
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Cheryl H. Agris, PhD
Public Arbitrator

Signature Date



Judith E. Gross, Esq.
Non-Public Arbitrator

1/12/06

Signature Date

January 18, 2006

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