

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

Clara Sue DeLaney

v.

05-01552

Louisville, Kentucky

Respondents

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

NATURE OF DISPUTE

Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

Clara Sue DeLaney ("Claimant") was represented by Edward J. Dovin, Esq., of Gard Smiley Bishop & Dovin, LLP, Atlanta, Georgia.

A.G. Edwards & Sons, Inc. ("AGE") and Byron 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 and Brent J. Burton, Esq., of A.G. Edwards & Sons, Inc., St. Louis, Missouri.

CASE INFORMATION

The Statement of Claim was filed on or about March 23, 2005. The Submission Agreement of Claimant was signed on or about March 7, 2005.

The Statement of Answer was filed jointly by Respondents, A.G. Edwards & Sons, Inc., and Byron Holley, on or about May 17, 2005. The Submission Agreement of Respondent, A.G. Edwards & Sons, Inc., was signed on or about May 17, 2005. The Submission Agreement of Respondent, Byron Holley, was signed on or about May 4, 2005.

CASE SUMMARY

Claimant asserted causes of action including the following: breach of fiduciary duty, negligence, breach of contract, common law fraud and misrepresentation, violations of the Securities Act of Kentucky, violation of Kentucky's Consumer Protection Act and failure to supervise. The causes of action related to the suitability of the recommendation for Claimant to roll her retirement assets over and transfer the funds into her existing IRA with Respondents. Claimant further alleged that

Respondents never properly diversified her account and instead advised her to leave virtually all of her irreplaceable assets in one volatile technology stock, Texas Instruments.

Respondents denied the allegations set forth in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim failed to state a claim upon which relief can be granted; Claimant was aware from the outset of the risks of loss associated with investing in securities and voluntarily assumed such risk; Respondents did not maintain control over Claimant's account, did not engage in excessive trading in Claimant's account, and had no improper purpose in recommending the transactions in Claimant's account other than to comply with the stated investment objectives for the account; by failing to exercise a degree of care over her affairs and investments that an ordinary prudent investor would exercise, Claimant caused or contributed to cause the alleged damages of which Claimant complains in her Statement of Claim; and the damages Claimant allegedly suffered were caused, if at all, by unforeseen market factors and conditions affecting the value of securities in Claimant's account for which AGE is not responsible.

RELIEF REQUESTED

Claimant requested an award of \$150,000 in compensatory damages, plus punitive damages, costs, interest, attorneys' fees and any other relief the panel deems just and proper.

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

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. Respondents, A.G. Edwards & Sons, Inc., and Byron Holley, are jointly and severally liable for and shall pay to Claimant, Clara Sue DeLaney, compensatory damages in the amount of Twenty Five Thousand Dollars and No Cents (\$25,000.00).
2. Respondents, A.G. Edwards & Sons, Inc., and Byron Holley, are jointly and severally liable for and shall pay to Claimant, Clara Sue DeLaney, interest at the rate of 8% per

annum, on the above stated sum, from and including the date of service of this Award through and including the date this Award is paid in full.

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 = \$ 300

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	= \$ 1,700
Pre-hearing process fee	= \$ 750
Hearing process fee	= \$ 2,750

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) Pre-hearing session with Panel x \$ 1,125 = \$ 1,125

Pre-hearing conference: July 27, 2005 1 session

Five (5) Hearing sessions with Panel x \$ 1,125 = \$ 5,625

Hearing Dates:	March 7, 2006	2 sessions
	March 8, 2006	2 sessions
	March 9, 2006	1 session

Total Forum Fees	= \$ 6,750
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The Arbitration Panel has assessed \$ 3,375 of the forum fees to Clara Sue DeLaney.

The Arbitration Panel has assessed \$ 3,375 of the forum fees jointly and severally to A.G. Edwards & Sons, Inc., and Byron Holley.

FEE SUMMARY

Claimant, Clara Sue DeLaney, is liable for:

Initial Filing Fee	= \$ 300
<u>Forum Fees</u>	= \$ 3,375
Total Fees	= \$ 3,675
<u>Less payments</u>	= \$ 1,425
Balance Due NASD Dispute Resolution	= \$ 2,250

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

<u>Member Fees</u>	= \$ 5,200
Total Fees	= \$ 5,200
<u>Less payments</u>	= \$ 5,200
Balance Due NASD Dispute Resolution	= \$ 0

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

<u>Forum Fees</u>	= \$ 3,375
Total Fees	= \$ 3,375
<u>Less payments</u>	= \$ 0
Balance Due NASD Dispute Resolution	= \$ 3,375

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

Bernard D. Leachman, Jr., JD - Public Arbitrator, Presiding Chair
Enrico A. Mazzoli, Esq. - Public Arbitrator
Marilyn R. Rathbun - Non-Public Arbitrator

Concurring Arbitrators:

Bernard D. Leachman, Jr., JD
Public Arbitrator, Presiding Chair

Signature Date

Enrico A. Mazzoli, Esq.
Public Arbitrator

Signature Date

Marilyn R. Rathbun
Non-Public Arbitrator


Signature Date

3/15/06
Date of Service (NASD use only)

ARBITRATION PANEL

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Enrico A. Mazzoli, Esq. - Public Arbitrator
Marilyn R. Rathbun - Non-Public Arbitrator

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Public Arbitrator, Presiding Chair

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Enrico A. Mazzoli, Esq.
Public Arbitrator

Signature Date

Marilyn R. Rathbun
Non-Public Arbitrator

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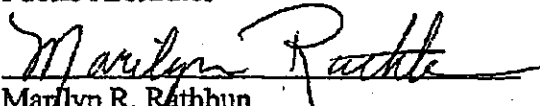
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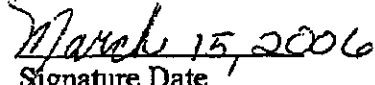
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Public Arbitrator

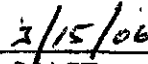
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Marilyn R. Rathbun
Non-Public Arbitrator



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