

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of Claimants

Timothy W. Mehallick, Individually and as
Assignee of the claims of Lorna B. Stevens,
Dian B. Brown, Wilma B. Reese and
David B. Reynolds; and Louise B. Wise

vs.

Case Number: 05-01965
Hearing Site: Pittsburgh, Pennsylvania

Names of Respondents

A. G. Edwards & Sons, Inc. and
James Durken

NATURE OF THE DISPUTE

Customers vs. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Timothy W. Mehallick ("Mehallick"), Individually and as Assignee of the claims of Lorna B. Stevens ("Stevens"), Dian B. Brown ("Brown"), Wilma B. Reese ("Reese") and David B. Reynolds ("Reynolds"); and Louise B. Wise ("Wise"), hereinafter collectively referred to as "Claimants", were represented by Joel M. Dresbow, Esq., Pittsburgh, Pennsylvania.

A. G. Edwards & Sons, Inc. ("AGE") and James Durken ("Durken"), collectively referred to as "Respondents", were represented by William S. Port, Esq., of A.G. Edwards & Sons, Inc., St. Louis, Missouri.

CASE INFORMATION

The Statement of Claim was filed on or about April 14, 2005. The Submission Agreement of Claimant Mehallick was signed on or about March 23, 2005. The Submission Agreement of Claimant Wise was signed on or about March 23, 2005 by Timothy W. Mehallick, Power of Attorney for Louise B. Wise. The Submission Agreements of Claimants, Stevens, Brown, Reese and Reynolds, were signed on or about April 25, 2005 by Timothy W. Mehallick, as Assignee for Stevens, Brown, Reese, and Reynolds.

The Joint Statement of Answer was filed by Respondents on or about July 11, 2005. The Submission Agreement of Respondent AGE was signed on or about July 6, 2005 by

William S. Port, Vice President and Counsel, A.G. Edwards & Sons, Inc. The Submission Agreement of Respondent Durken was signed on or about June 30, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract; negligence; failure to execute; breach of fiduciary duty; and misrepresentation. The causes of action related to the failure to execute a Stop/Loss Sale Instruction after AGE froze all buy and sell transactions in all accounts owned alone or jointly by Claimant Mehallick because of allegations of forgery.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants are barred from recovering from Respondents under the doctrines of ratification, account stated, estoppel, waiver and laches because Respondents relied on the Claimants failure to promptly complain of the alleged acts and/or omissions; Claimants failed to act promptly and with due diligence to mitigate their damages after Claimants knew or should have known of the alleged acts and omissions of which Claimants complain. To the extent Claimants alleged damages were sustained after such time, Claimants are barred from recovering such damages; Claimants are barred by their own contributory negligence from recovering any alleged damages; The Claimants' knowing and voluntary assumption of the risks associated with investing in securities was the sole and proximate cause of their alleged damages; The damages allegedly suffered by Claimants were caused, if at all, by unforeseeable market factors and conditions effecting the value of securities in Claimants' accounts, for which Respondents are not liable or responsible; and, The Statement of Claim failed to state a claim against Respondents upon which relief can be granted.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$1,307,872.55
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees, and such other and further relief as the Panel deemed just and proper. At hearing, Respondent Durken orally requested all references of this claim be expunged from his CRD record.

OTHER ISSUES CONSIDERED & DECIDED

At the hearing, Respondents presented an oral Motion to Dismiss at the conclusion of the Claimants' case-in-chief. The Panel considered the arguments and denied the Motion.

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 the evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimants' claims, each and all, are hereby denied and dismissed with prejudice. The Panel determined that Claimants failed to sustain their burden of proof that either Respondent acted improperly;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) The Panel recommends the expungement of all references to the above captioned arbitration from Respondent, James Durken's, registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent, James Durken, 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, the Panel has made the following affirmative findings of fact:

The claim, allegation, or information is false; and,

- 4.) Any relief not specifically enumerated, including attorneys' fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fee for each claim:

Initial Claim 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. In this matter, A. G. Edwards & Sons, Inc. is a party to this matter and the following member fees are assessed:

Member surcharge = \$ 2,800.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 5,000.00

Forum Fees and Assessments

The Panel has assessed forum fees for each hearing 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:

Two (2) Pre-hearing sessions with Panel x \$1,200.00 = \$ 2,400.00

Pre-hearing conferences: September 26, 2005 1 session
November 29, 2005 1 session

Four (4) Hearing sessions x \$1,200.00 = \$ 4,800.00

Hearing Dates: September 12, 2006 2 sessions
September 13, 2006 2 sessions

Total Forum Fees = \$ 7,200.00

The Panel has assessed \$3,600.00 of the forum fees, jointly and severally, to Claimants Timothy W. Mehallick, Individually and as Assignee of the claims of Lorna B. Stevens, Dian B. Brown, Wilma B. Reese and David B. Reynolds; and Louise B. Wise.

The Panel has assessed \$3,600.00 of the forum fees, jointly and severally, to Respondents A. G. Edwards & Sons, Inc. and James Durken.

FEE SUMMARY

Claimants Timothy W. Mehallick, Individually and as Assignee of the claims of Lorna B. Stevens, Dian B. Brown, Wilma B. Reese and David B. Reynolds; and Louise B. Wise are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 3,600.00
Total Fees	= \$ 4,100.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 2,400.00

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

Member Fees	= \$ 8,550.00
Total Fees	= \$ 8,550.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

Forum Fee	= \$ 3,600.00
Total Fees	= \$ 3,600.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,600.00

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

ARBITRATION PANEL

Edward A. Grupp, Esq. - Public Arbitrator, Presiding Chair
Jared D. Simmer, Esq. - Public Arbitrator
AnnDrea M. Benson, Esq. - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

Edward A. Grupp, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Jared D. Simmer, Esq.
Public Arbitrator

Signature Date

AnnDrea M. Benson, Esq.
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 05-01965
Award Page 6 of 6

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Jared D. Simmer, Esq. - Public Arbitrator
AnnDrea M. Benson, Esq. - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

Edward A. Grupp

Edward A. Grupp, Esq.
Public Arbitrator, Presiding Chair

09/19/2006

Signature Date

Jared D. Simmer, Esq.
Public Arbitrator

Signature Date

AnnDrea M. Benson, Esq.
Non Public Arbitrator

Signature Date

9/20/06 M

Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 02-01985
Aware Page 6 of 9

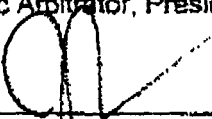
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Edward A. Grupp, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Jared D. Simmer, Esq.
Public Arbitrator

9-19-06

Signature Date

AnnDrea M. Benson, Esq.
Non-Public Arbitrator

Signature Date

9/20/06 MM

Date of Service (For NASD office use only)

The Statement of Claim was filed on or about April 14, 2006. The Submission Agreement of Claimant Mehilick was signed on or about March 23, 2006. The Submission Agreement

CASE INFORMATION

ARBITRATION PANEL

Edward A. Grupp, Esq. - Public Arbitrator, Presiding Chair
Jared D. Simmer, Esq. - Public Arbitrator
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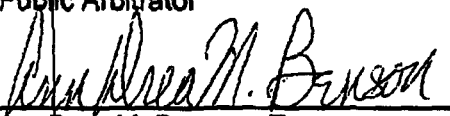
Concurring Arbitrators' Signatures:

Edward A. Grupp, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Jared D. Simmer, Esq.
Public Arbitrator

Signature Date



AnnDrea M. Benson, Esq.
Non-Public Arbitrator

Sept. 19, 2006

Signature Date

9/20/06 llw

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