

**AWARD**  
**NASD Dispute Resolution**

---

In the Matter of the Arbitration Between

Claimants

Melissa Sue Pierce, Eugene Craig Pierce,  
Jennifer L. Nelson and Melissa Sue Pierce  
individually and as joint account holder for  
Kurt R. Pierce

and

Case Number: 05-02412  
Hearing Site: Chicago, Illinois

Respondents

A. G. Edwards & Sons, Inc. and Ronald  
Scott Endsley

---

**NATURE OF DISPUTE**

Customers v. Member and Associated Person

**REPRESENTATION OF PARTIES**

Melissa Sue Pierce, Eugene Craig Pierce, Jennifer L. Nelson and Melissa Sue Pierce individually and as joint account holder for Kurt R. Pierce ("Claimants") were represented by Bruce Oaks, Esq. and Rosalind M. Robertson, Esq., SimmonsCooper, LLC, East Alton, Illinois.

A. G. Edwards & Sons, Inc. ("Edwards") and Ronald Scott Endsley ("Endsley"), hereinafter collectively referred to as ("Respondents"), were represented by Jeffrey W. Coverdell, Esq., A.G. Edwards & Sons, Inc., St. Louis. Missouri.

**CASE INFORMATION**

The Statement of Claim was filed on or about May 6, 2005. The Submission Agreement of Melissa Sue Pierce was signed on or about October 21, 2004. The Submission Agreement of Eugene Craig Pierce was signed on or about October 21, 2004. The Submission Agreement of Jennifer L. Nelson was signed on or about April 19, 2005.

The Statement of Answer was filed jointly by Respondents on or about August 22, 2005. The Submission Agreement of Edwards was signed on or about June 21, 2005. The Submission Agreement of Endsley was signed on or about July 28, 2005.

### **CASE SUMMARY**

Claimants asserted the following causes of action: violation of the Illinois Consumer Fraud and Deceptive Business Practices Act; violation of the Securities Exchange Act of 1934 and Rule 10(b)(5) promulgated thereunder; violation of the Illinois Securities Law of 1953; breach of fiduciary duty; breach of contract; negligence; and failure to supervise. The causes of action relate to Claimants' allegation that Respondents made unsuitable allocations of their brokerage account assets in growth stocks including Home Depot, Pepsico and Telecommunications, Inc.; placed Claimants on margin without explanation; and failed to properly supervise their accounts.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim and each count thereof fails to state a claim upon which relief can be granted; Claimants failed to act promptly and with due diligence to mitigate their damages after Claimants knew or should have known of the alleged acts; Claimants have waived and/or are estopped from asserting their claims against Respondents by virtue of their conduct and dealings with Respondents; Claimants ratified the alleged conduct about which they complained.

### **RELIEF REQUESTED**

*Claimant requested:*

Compensatory Damages	\$259,451.56
Punitive Damages	\$778,354.68
Interest	\$ unspecified
Attorneys' Fees	\$ unspecified
Other Costs	\$ unspecified
Other Monetary/Non-Monetary Relief:	\$ unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees. Respondent Endsley requested expungement of all references to this matter from his CRD record.

### **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 original(s) remain on file with NASD Dispute Resolution ("NASD").

### **AWARD**

After considering the pleadings, the testimony, the evidence presented at the hearing, and the post-hearing submissions, 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 Ronald Scott Endsley, are jointly and severally liable for and shall pay to Claimants, Melissa Sue Pierce, Eugene Craig Pierce, Jennifer L. Nelson and Melissa Sue Pierce individually and as joint account holder for Kurt R. Pierce, compensatory damages in the amount of \$50,000.00;
- 2.) Respondents, A. G. Edwards & Sons, Inc. and Ronald Scott Endsley, are jointly and severally liable for and shall pay to Claimants, Melissa Sue Pierce, Eugene Craig Pierce, Jennifer L. Nelson and Melissa Sue Pierce individually and as joint account holder for Kurt R. Pierce, the sum of \$36,400.00 in attorneys' fees; in deciding to award attorneys' fees, the Panel considered the pleadings filed by counsel, as well as the arguments presented on behalf of the parties, and determined that authority existed for an award of attorneys' fees to the Claimants;
- 3.) Respondents, A. G. Edwards & Sons, Inc. and Ronald Scott Endsley, are jointly and severally liable for and shall pay to Claimants, Melissa Sue Pierce, Eugene Craig Pierce, Jennifer L. Nelson and Melissa Sue Pierce individually and as joint account holder for Kurt R. Pierce, the sum of \$5,310.00 in costs and expenses;
- 4.) Respondents A. G. Edwards & Sons, Inc. and Ronald Scott Endsley, are jointly and severally liable for and shall pay to Claimants, Melissa Sue Pierce, Eugene Craig Pierce, Jennifer L. Nelson and Melissa Sue Pierce individually and as joint account holder for Kurt R. Pierce, the sum of \$500.00 as reimbursement for the non-refundable NASD Dispute Resolution filing fee;
- 5.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 6.) Respondent's, Ronald Scott Endsley's, request for expungement is denied; and
- 7.) Any relief not specifically enumerated, including punitive damages, 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 fees 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 event(s) giving rise to the dispute. In this matter, the member firm is A. G. Edwards & Sons, Inc.

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. 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 a single arbitrator x \$450.00	= \$ 450.00
Pre-hearing conference: November 17, 2005 1 session	
One (1) Pre-hearing session with Panel x \$1,200.00	= \$ 1,200.00
Pre-hearing conference: October 5, 2005 1 session	
Six (6) Hearing sessions x \$1,200.00	= \$ 7,200.00
Hearing Dates: July 11, 2006 2 sessions	
July 12, 2006 2 sessions	
July 13, 2006 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$ 8,850.00

The Arbitration Panel has assessed \$4,425.00 of the forum fees jointly and severally to Melissa Sue Pierce, Eugene Craig Pierce, Jennifer L. Nelson and Melissa Sue Pierce individually and as joint account holder for Kurt R. Pierce.

The Arbitration Panel has assessed \$4,425.00 of the forum fees jointly and severally to A. G. Edwards & Sons, Inc. and Ronald Scott Endsley.

**Fee Summary**

Claimants, Melissa Sue Pierce, Eugene Craig Pierce, Jennifer L. Nelson and Melissa Sue Pierce individually and as joint account holder for Kurt R. Pierce, are jointly and severally liable for:

Forum Fees	= \$ 4,425.00
Total Fees	= \$ 4,425.00
Less payments	= \$ 1,200.00
Balance Due NASD Dispute Resolution	= \$ 3,225.00

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 Ronald Scott Endsley, are jointly and severally liable for:

Forum Fees	= \$ 4,425.00
Total Fees	= \$ 4,425.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 4,425.00

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

**ARBITRATION PANEL**

Michael Nathanson, CPA - Public Arbitrator, Presiding Chair  
Gregory D. Bruno, Esq. - Public Arbitrator  
Sheldon M. Pekin - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Michael Nathanson, CPA  
Michael Nathanson, CPA  
Public Arbitrator, Presiding Chair

July 28, 2006  
Signature Date

Gregory D. Bruno, Esq.  
Public Arbitrator

Signature Date

/s/ Sheldon M. Pekin  
Sheldon M. Pekin  
Non-Public Arbitrator

July 28, 2006  
Signature Date

7/31/06  
Date of Service (For NASD office use only)

**ARBITRATION PANEL**


Michael Nathanson, CPA - Public Arbitrator, Presiding Chair  
Gregory D. Bruno, Esq. - Public Arbitrator  
Sheldon M. Pekin - Non-Public Arbitrator

### Concurring Arbitrators:

*Michael Nathanson*  
Michael Nathanson, CPA  
Public Arbitrator, Presiding Chair

28 JULY 2006  
Signature Date

Gregory D. Bruno, Esq.  
Public Arbitrator



Sheldon M. Pekin  
Non-Public Arbitrator

Signature Date  
7/25/06  
Signature Date

Date of Service (For NASD office use only)