

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Therese Gmyrek (Claimant) v. A.G. Edwards & Sons and Marguerite Foley (Respondents)

Case Number: 05-2821

Hearing Site: Boston, Massachusetts

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

REPRESENTATION OF PARTIES

Claimant Therese Gmyrek hereinafter referred to as "Claimant": Kevin G. Diamond, Esq., Shea & Diamond, LLP, Holliston, MA.

Respondents A.G. Edwards & Sons ("Edwards") and Marguerite Foley ("Foley") hereinafter collectively referred to as "Respondents": Brent J. Burtin, Esq., A.G. Edwards & Sons, Inc., St. Louis, MO.

CASE INFORMATION

Statement of Claim filed on or about: May 18, 2005.

Claimant signed the Uniform Submission Agreement: May 25, 2005.

Joint Statement of Answer filed by Respondents on or about: July 19, 2005.

Edwards signed the Uniform Submission Agreement: July 19, 2005.

Foley signed the Uniform Submission Agreement: June 29, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: violation of Massachusetts Securities Act; violation of Massachusetts common law: negligence, breach of contract, breach of fiduciary duty, respondeat superior; violation of NASD Conduct Rules 2110, 2120, 2310, and 3010; violation of NYSE rules 401, 405, and 342; violation of American Stock Exchange Rules 16, 411, and 320.

The causes of action relate to MCI Communications Corporation Bonds and Worldcomm's bonds.

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 compensator damages in an amount in excess of \$90,000.00, plus

interest at the legal rate of 6% from the date of investment, reimbursement of all filing and forum expenses and expert or analyst fees; reasonable attorneys' fees estimated to be \$30,000.00, and such other relief as the arbitration panel deems just and proper.

Respondents requested that the Statement of Claim be dismissed and that costs and fees be assessed against Claimant, and that the panel make a recommendation to expunge Foley's CRD records.

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. Respondents are jointly and severally liable for and shall pay Claimant compensatory damages in the amount of \$50,465.00.
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	= \$ 225.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, A.G. Edwards is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

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(s): Date 1 session	
Four (4) Hearing sessions @ \$750.00	= \$3,000.00
Hearing Dates: February 14, 2006 2 sessions	
February 15, 2006 2 sessions	
Total Forum Fees	= \$3,750.00

1. The Panel has assessed \$3,750.00 of the forum fees jointly and severally against Respondents Edwards and Foley.

Fee Summary

1. Claimant is solely liable for:

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

3. Respondent A.G. Edwards is solely liable for:

<u>Member Fees</u>	= \$3,550.00
Total Fees	= \$3,550.00
<u>Less payments</u>	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents A.G. Edwards and Foley are jointly and severally liable for:

<u>Forum Fees</u>	= \$3,750.00
Total Fees	= \$3,750.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$3,750.00


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

ARBITRATION PANEL

David E. Valicenti	-	Public Arbitrator, Presiding Chairperson
Gene M. Bauer, Esq.	-	Public Arbitrator
David A. Allen	-	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 in which is my award.



David E. Valicenti
Public Arbitrator, Presiding Chairperson

2/17/06
Signature Date

Gene M. Bauer, Esq.
Public Arbitrator

Signature Date

David A. Allen
Non-Public Arbitrator

Signature Date

February 24, 2006

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL


David E. Valicenti	-	Public Arbitrator, Presiding Chairperson
Gene M. Bauer, Esq.	-	Public Arbitrator
David A. Allen	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

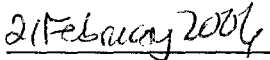
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Public Arbitrator, Presiding Chairperson

Signature Date



Gene M. Bauer, Esq.
Public Arbitrator



Signature Date

David A. Allen
Non-Public Arbitrator

Signature Date

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