

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

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In the Matter of the Arbitration Between

Name of Claimants

Daniel E. & Marilyn Christiansen

and

05-02932  
Chicago, Illinois

Name of Respondents

A.G. Edwards & Sons, Inc.  
Robert Lee Schrieber

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

**REPRESENTATION OF PARTIES**

Daniel E. & Marilyn Christiansen ("Claimants") were represented by Howard B. Prossnitz, Esq., Law Offices of Birndoff & Birndorf, Chicago, Illinois.

A.G. Edwards & Sons, Inc. ("Respondent AG Edwards") and Robert Lee Schrieber ("Respondent Schrieber") hereinafter referred to as ("Respondents") were represented by Nuviah Shirazi, Esq., A.G. Edwards & Sons, Inc., St. Louis, Missouri.

**CASE INFORMATION**

The Statement of Claim was filed on or about June 6, 2005. Submission Agreement of Claimant Daniel E. & Marilyn Christiansen was signed on May 16, 2005.

Statement of Answer was filed by Respondents A.G. Edwards & Sons, Inc. and Robert Lee Schrieber on or about August 9, 2005. Submission Agreement of Respondent A.G. Edwards & Sons, Inc. was signed on August 8, 2005. Submission Agreement of Respondent Robert Lee Schrieber was signed on July 18, 2005.

**CASE SUMMARY**

Claimants asserted the following causes of action: suitability; breach of fiduciary duty; failure to supervise; negligence; and violation of Illinois Securities Act. It was specifically alleged that:

- Neither Daniel nor Marilyn are sophisticated investors. They relied on their broker Robert Lee Schrieber at A.G. Edwards to provide them with full service brokerage advice. He picked the investments for their account.
- In 2000, he was aware that Claimants were retired, that neither one of them had any regular income, that they had no retirement nest egg or savings other than the portfolio at issue, and that they needed the investments in this portfolio to generate income for them to live on and to pay their bills.
- For reasons that are completely inexplicable, Respondent Schrieber determined that this retired couple with no income, limited assets and a need for regular income should be placed in all tech, internet and growth funds, and that their primary investment objective should be designated as "growth-aggressive".
- Respondent Schrieber recklessly put all their money in internet, technology and growth funds such as the Goldman Sachs Internet Tollkeeper Fund, Munder Net Net Fund, Putnam Global Growth Fund, Putnam Health Sciences Fund, Putnam OTC and Emerging Growth Fund, Putnam New Opportunities Fund, Putnam Vista Fund, Putnam Voyager II Fund, and VK Telecommunications and Bandwidth Focus Portfolio.
- This portfolio was a recipe for disaster which soon unfolded. The result of totally concentrating this retired couple with negative adjusted gross income in all tech, internet and growth funds was financially devastating.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated

- At no time did Respondents make any material misrepresentations to Claimants.
- Schrieber met with and spoke to the Claimants frequently. During said conversations, he reviewed the status of the account and their investment options.
- Schrieber made recommendations to Claimants based on what he felt was suitable to achieve Claimants' stated investment goals. Claimants' Financial Consultant worked to the best of his ability to assist Claimants in achieving those objectives.
- Needless to say, Claimants' account was not immune from market fluctuation and the influence of world events on the market.
- Claimants were advised shortly after each order was executed in their account by receipt of a confirmation forwarded to them by Edwards' St. Louis Office. They also received monthly statements from Edwards' St. Louis Office, which provided detailed information about their account, such as each deposit, each withdrawal, each dividend paid, each stock split or reverse split, interest earned, each purchase and sale of stock, the fluctuation in value of the account from month to month, and what percentage of their accounts were in equity, mutual funds, or in cash.
- Respondents deny that unsuitable recommendations were made, deny that any laws or regulations were violated, and deny Claimants' failure to supervise claim.

### **RELIEF REQUESTED**

Claimants requested an award in their favor and against Respondents, jointly and severally, awarding compensatory damages of at least \$150,000, including a return of all commissions, damages for the decline in account value, lost opportunity cost damages, plus interest, the costs of the action, filing fees, and for such further and other relief as the arbitrators deem appropriate.

Respondents requested that all claims be dismissed with prejudice and that Respondents be awarded all costs incurred in connection with this matter, reasonable attorney fees, and such other relief deemed just and proper by the Arbitration Panel.

### **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 the NASD Dispute Resolution (the "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. The claims asserted in this matter shall be denied in their entirety.
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
3. 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, not specifically awarded or otherwise provided for above.

### **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	= \$300.00
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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 firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm(s) is A.G. Edwards & Sons, Inc.

Member surcharge	\$	1,700.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	2,750.00
Total Member Fees	\$	5,200.00

### **Forum Fees and Assessments**

The Arbitration Panel assesses forum fees for each hearing session conducted or each decision rendered on a discovery-related motion on the papers.. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

1	Pre-hearing session(s) with Panel	@	1,125.00	\$	1,125.00
	November 2, 2005	1	Session		
3	Hearing sessions	@	1,125.00	\$	3,375.00
	April 18, 2006	2	Sessions		
	April 19, 2006	1	Session		
		2	Sessions		
	Total Forum Fees			\$	4,500.00

The Arbitration Panel has assessed \$2,250.00 of the forum fees jointly and severally to Daniel E. & Marilyn Christiansen.

The Arbitration Panel has assessed \$2,250.00 of the forum fees jointly and severally to A.G. Edwards & Sons, Inc., and Robert Lee Schrieber.

### **Fee Summary**

Claimants, Daniel E. & Marilyn Christiansen are jointly and severally liable for:

Initial Filing Fee	= \$	300.00
<u>Forum Fees</u>	= \$	2,250.00
Total Fees	= \$	2,550.00
<u>Less payments</u>	= \$	-1,425.00
Balance Due NASD Dispute Resolution	= \$	1,125.00

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

Member Fees	= \$	5,200.00
Total Fees	= \$	5,200.00
<u>Less payments</u>	= \$	<u>-5,200.00</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$</b>	<b>0.00</b>

Respondents, A.G. Edwards & Sons, Inc., and Robert Lee Schrieber, are jointly and severally liable for:

<b>Forum Fees</b>	= \$	2,250.00
<b>Total Fees</b>	= \$	2,250.00
<b>Less payments</b>	= \$	-0.00
<b>Balance Due NASD Dispute Resolution</b>	= \$	2,250.00

**All balances are due to NASD Dispute Resolution**

**ARBITRATION PANEL**

**James D. Adducci, Esq. - Public Arbitrator, Presiding Chair**  
**Frank A. Dusek, CPA - Public Arbitrator**  
**Robert B. Schmidt - Non-Public Arbitrator**

### Concurring Arbitrators:

**James D. Adducci, Esq.**  
**Public Arbitrator, Presiding Chair**

Signature Date

**Frank A. Dusek, CPA**  
**Public Arbitrator**

**Signature Date**

**Robert B. Schmidt**  
Non-Public Arbitrator

**Signature Date**

Date of Service (For NASD office use only)

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

Member Fees	= \$	5,200.00
Total Fees	= \$	5,200.00
Less payments	= \$	-5,200.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, A.G. Edwards & Sons, Inc., and Robert Lee Schrieber, are jointly and severally liable for:

Forum Fees	= \$	2,250.00
Total Fees	= \$	2,250.00
Less payments	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	2,250.00

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 Frank A. Dusek, CPA - Public Arbitrator  
 Robert B. Schmidt - Non-Public Arbitrator

Concurring Arbitrators:

James D. Adducci, Esq.  
 Public Arbitrator, Presiding Chair

Signature Date



4-24-06

Frank A. Dusek, CPA  
 Public Arbitrator

Signature Date

Robert B. Schmidt  
 Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

05/04/2006 12:00 FAX

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NASD Dispute Resolution

Arbitration No. 05-02932

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

Member Fees	= \$	5,200.00
Total Fees	= \$	5,200.00
Less payments	= \$	-5,200.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, A.G. Edwards &amp; Sons, Inc., and Robert Lee Schrieber, are jointly and severally liable for:

Forum Fees	= \$	2,250.00
Total Fees	= \$	2,250.00
Less payments	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	2,250.00

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ARBITRATION PANEL

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Frank A. Dusek, CPA - Public Arbitrator

Robert B. Schmidt - Non-Public Arbitrator

Concurring Arbitrators:

James D. Adducci, Esq.  
Public Arbitrator, Presiding Chair

Signature Date

Frank A. Dusek, CPA  
Public Arbitrator

Signature Date

Robert B. Schmidt  
Non-Public Arbitrator4/8/06  
Signature Date

Date of Service (For NASD office use only)