

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

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In the Matter of the Arbitration Between:

Name of Claimant

Catherine A. Ferguson

vs.

Case Number: 06-00126  
Hearing Site: Troy, Michigan

Name of Respondent

A.G. Edwards & Sons, Inc.

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**NATURE OF THE DISPUTE**

Customer vs. Member

**REPRESENTATION OF PARTIES**

Catherine A. Ferguson ("Claimant") was represented by Anthony V. Trogan, Esq., Anthony V. Trogan, P.L.L.C., West Bloomfield, Michigan.

A.G. Edwards & Sons, Inc. ("Respondent") was represented by Dennis J. Capriglione, Esq., A.G. Edwards & Sons, Inc., St. Louis, Missouri.

**CASE INFORMATION**

The Statement of Claim was filed on or about January 10, 2006. The First Amended Statement of Claim was filed on or about March 6, 2006. The Submission Agreement of Claimant was signed on or about December 27, 2005.

The Statement of Answer was filed by Respondent on or about March 6, 2006. The Submission Agreement of Respondent was signed on or about January 25, 2006, by Clay L. Grumke.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract, common law fraud, conspiracy, promissory estoppel, negligence, malpractice, breach of fiduciary duty, and breach of Michigan securities laws. The causes of action related to Claimant's allegations that Respondent convinced Claimant to engage in high risk and speculative trading in her accounts in contravention of her articulated conservative investment objectives and low risk tolerance. The securities at issue included the following mutual funds: AIM Premier Equity, MFS Emerging Growth, MFS Capital Opportunity, and Mass Investors Trust.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim fails to state a claim upon which relief can be granted, Claimant is barred from recovery by the doctrine of laches, and Claimant's claims are barred by her assumption of the risks.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$ 182,000.00
Exemplary/Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and all other and further relief deemed appropriate.

### **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.

### **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.) Claimant's claims, each and all, are hereby denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

### **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 = \$ 300.00

#### **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, the member firm is A.G. Edwards & Sons, Inc.

Member surcharge = \$ 1,700.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$ 2,750.00

#### **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:

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$ 450.00  
Pre-hearing conference: December 15, 2006 1 session

One (1) Pre-hearing session with Panel x \$1,125.00 = \$ 1,125.00  
Pre-hearing conference: May 8, 2006 1 session

Four (4) Hearing sessions x \$1,125.00 = \$ 4,500.00  
Hearing Dates: January 3, 2007 2 sessions  
January 4, 2007 2 sessions

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Total Forum Fees = \$ 6,075.00

The Panel has assessed \$1,125.00 of the forum fees to Catherine A. Ferguson.

The Panel has assessed \$4,950.00 of the forum fees to A.G. Edwards & Sons, Inc.

**FEE SUMMARY**

Claimant, Catherine A. Ferguson, is liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,425.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 4,950.00
Total Fees	= \$ 10,150.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 4,950.00

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

**ARBITRATION PANEL**

William P. Thorpe, Esq. - Public Arbitrator, Presiding Chair  
Charles A. Palmer, JD - Public Arbitrator  
William C. Kubicz - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

/s/ William P. Thorpe, Esq.  
William P. Thorpe, Esq.  
Public Arbitrator, Presiding Chair

01/26/07  
Signature Date

/s/ Charles A. Palmer, JD  
Charles A. Palmer, JD  
Public Arbitrator

                      
Signature Date

/s/ William C. Kubicz  
William C. Kubicz  
Non-Public Arbitrator

01/25/07  
Signature Date

01/27/07  
Date of Service (For NASD office use only)

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