

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

Suzanne de Kuyper

86-00985

Name of Respondent(s)

A.G. Edwards & Sons, Inc.  
Thomas D. Rogers

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Heard before:

Name

Public/Industry

William M. Prifti, Esq.  
Sydney Parlow  
James Fox

Public Arbitrator  
Public Arbitrator  
Industry Arbitrator

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on August 29, 1986. Claimant Suzanne de Kuyper alleged that Respondents, who set up a financial plan for management of her money, failed to inform her of the risks and nature of options trading and traded options heavily in her account without her knowledge of the extensive trading, creating significant losses. Claimant alleged that she was an unsophisticated investor who was not suitable for the trading of options. Respondents maintained that the Claimant did not have a discretionary account, that she authorized every transaction before it was executed, and that she maintained full control and authority over all of the activity in her account. Respondents also maintained that they advised the Claimant that options trading was too risky for her, but she persisted in telling Respondent Thomas Rogers that she wanted to trade options.

RELIEF REQUESTED

Claimant requested compensatory damages of \$303,659.00, punitive damages, \$250,000.00 in damages for emotional distress, interest, costs, and attorneys fees. Respondents asserted a counterclaim for money damages for injury to their business reputations, for their loss of future earnings, for their costs and legal fees, and for treble damages for the bringing of the action by the Claimant.

### AWARD

On January 22, 1991 in a pre-hearing telephone conference, and on February 5, 1991, February 6, 1991 and March 12, 1991 in Boston, Massachusetts in hearings lasting seven (7) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Suzanne de Kuyper on February 13, 1986, by Respondent A.G. Edwards and Sons, Inc. on September 9, 1986 and by Respondent Thomas D. Rogers on September 12, 1986.

After considering the pleadings, the testimony, and the evidence presented at the hearing as well as the parties' post-hearing submissions, the arbitrators have decided in full and final resolution of all issues submitted for determination as follows:

- (1) The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.
- (2) Respondent A.G. Edwards and Sons, Inc. is liable and shall pay to the Claimant Suzanne de Kuyper the sum of Two Hundred Four Thousand One Hundred Ninety-Nine Dollars and No Cents (\$204,199.00). This amount is inclusive of interest.
- (3) Respondent Thomas D. Rogers is liable and shall pay to the Claimant Suzanne de Kuyper the sum of Twenty Three Thousand Eight Hundred and Five Dollars and No Cents (\$23,805.00). This amount is inclusive of interest.
- (4) The Claimant's claims for punitive damages and damages for emotional distress be and hereby are denied.
- (4) The counterclaims of Respondents A.G. Edwards and Sons, Inc. and Thomas D. Rogers be and hereby are dismissed.
- (5) The parties shall each bear their respective costs including attorneys fees.

### FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

- (1) The NASD shall retain the \$750.00 filing fee previously deposited by the Claimant. Claimant Suzanne de Kuyper is assessed an additional \$1,875.00 in forum fees.
- (2) Respondents A.G. Edwards and Sons, Inc. and Thomas D. Rogers are jointly and severally assessed \$2,625.00 in forum fees.

Fees are payable to the National Association of Securities Dealers, Inc.

~~Concurring~~ Arbitrator(s) Signature

/s/  
William M. Prifti, Esq.  
(chairperson)

/s/  
Sydney Parlow

/s/  
James Fox

Date of Decision: April 26, 1991