

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Estate of Lindsey Owens Sams  
Claimant

and

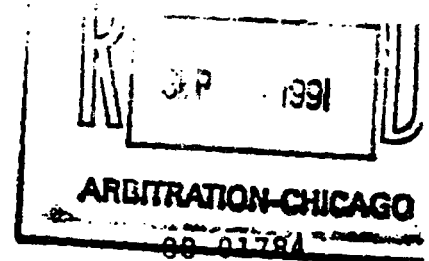
A.G. Edwards & Sons, Inc. and S. Gray  
Jackson, Jr.

Respondents

and

James H. Sams

Third-Party Respondent



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REPRESENTATION OF PARTIES

Claimant, Estate of Lindsey Owens Sams was represented by Ralph E. Rood, Esq. of Gohlson, Hicks & Nicols, Columbus, Mississippi. Respondent A. G. Edwards & Sons, Inc. and S. Gray Jackson, Jr. were represented by Stephen G. Sneeringer, Esq. of A.G. Edwards & Sons, Inc., St. Louis, Missouri. Third-party Respondent James H. Sams was represented by Joseph O. Sams, Esq., Columbus, Mississippi.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on June 1, 1988, the Estate of Lindsey Owens Sams, Deceased ("Claimant") alleged that Respondents A.G. Edwards & Sons, Inc. and S. Gray Jackson, Jr. (collectively, "Respondents") violated Section 10b of the Securities Exchange Act of 1934 and rule 10b-5 promulgated thereunder, the Mississippi Securities Act, engaged in common law fraud, breached fiduciary duties owed Claimant and violated the suitability rules of the NYSE and NASD while handling Claimant's Securities Account. Claimant alleged that Respondents engaged in a level and type of trading that was clearly contrary to Claimant's instructions and the Respondents participated in a scheme to generate commissions in complete disregard for and to the detriment of Claimant. Claimant alleged that Respondents opened margin accounts, invested in highly speculative securities which were not suitable for Claimant's needs and engaged in

unauthorized trades.

In a Statement of Answer filed with the NASD on August 9, 1988 Respondents alleged that Claimant authorized them to accept the authority of Dr. Sams to trade her account and acquiesced to all transactions directed by her husband. Respondents alleged that Claimant never instructed Respondent Jackson that he would personally handle the account or that it would be handled any differently than previous accounts maintained by Dr. and Mrs. Sams. Respondents specifically denied all actions attributed to them in the Statement of Claim. Respondents also alleged numerous affirmatives defenses including, but not limited to, estoppel, contributory negligence and assumption of risk.

Respondent A. G. Edwards asserted a counterclaim against Claimant for reasonable costs and attorneys' fees in defending this action. Respondent A. G. Edwards also asserted a third party claim against Dr. James H. Sams for indemnity and contribution in the event any award was entered for the claims.

Claimant replied to the counterclaim on November 7, 1990 and denied the allegation that Respondents were entitled to costs or expenses in connection with the arbitration.

Third party respondent Sams filed a reply to the third party claim on January 20, 1989 wherein he denied he was contractually obligated to arbitrate this matter.

#### RELIEF REQUESTED

Claimant requested \$184,145.75, plus reasonable compound interest from and after July 11, 1984, a reasonable attorney's fee and all expenses of the proceeding including reimbursement of the filing fee. Respondents requested dismissal of the statement of claim and an award of all costs and expenses, by virtue of its counterclaim, incurred in connection with the arbitration proceeding. Claimant requested dismissal of the counterclaim. Respondents requested indemnity from Third-party Respondent as to any liabilities arising from any decision in favor of claimant.

#### OTHER ISSUES

Neither Dr. Sams nor his attorney were present for closing arguments on June 26, 1991. Claimant's counsel represented that they did not wish to be present for closing arguments.

## PROCEDURAL MATTERS

On January 7 and 8, 1991 and June 25 and 26, 1991 in Memphis, Tennessee during a hearing lasting a total of (8) eight sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on May 31, 1988 by James D. Ferguson, Executor on behalf of Claimant, the Estate of Lindsey Owens Sams, Deceased, on August 8, 1988 by Stephen G. Sneeringer on behalf of Respondent A.G. Edwards & Sons, Inc. and on September 12, 1988 by Respondent S. Gray Jackson, Jr.

Third-party Respondent Dr. James H. Sams did not file with the NASD a properly executed submission to arbitration but he appeared with counsel and testified at the hearing. The panel finds that Dr. Sams waived any contest of jurisdiction and is therefore bound by the determination of the arbitration panel on all issues submitted.

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.

## AWARD

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents A.G. Edwards and Jackson are jointly and severally liable for and shall pay to Claimant, inclusive of interest the sum of \$185,609.61;
2. A.G. Edwards' counterclaim is denied and dismissed in its entirety;
3. Third-party Respondent, Dr. Sams is liable for and shall pay to Respondent and Third-party Claimant A.G. Edwards, the sum of \$92,805.00;
4. The parties shall each bear their own costs, expenses and attorney's fees incurred in this matter; and

5. Pursuant to Section 43(c) of the Code of Arbitration Procedure the National Association of Securities Dealers Inc. shall retain the \$200.00 Claim filing fee and refund the hearing session deposit in the amount of \$550.00 previously deposited with the NASD by the Claimant. Respondent A.G. Edwards is assessed and shall pay to the NASD the sum of \$600.00 as forum fees.

Dated:

Panel Members Concurring

9/6/91

Irving M. Strauch, Esq.  
Presiding Chair  
Public Arbitrator

Thomas L. Maschmeyer Jr., Esq.  
Public Arbitrator

George A. Sawyer  
Industry Arbitrator

Date Served by the NASD: \_\_\_\_\_

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Dated:

8/29/91

Panel Members Concurring

Irving M. Strauch  
Irving M. Strauch, Esq.  
Presiding Chair  
Public Arbitrator

Thomas L. Maschmeyer Jr., Esq.  
Public Arbitrator

George A. Sawyer  
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Panel Members Concurring

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Irving M. Strauch, Esq.  
Presiding Chair  
Public Arbitrator

\_\_\_\_\_  
Thomas L. Maschmeyer Jr., Esq.  
Public Arbitrator

Sept 3, 1991

  
George A. Sawyer  
Industry Arbitrator

Date Served by the NASD: \_\_\_\_\_