

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

A.G. Edwards & Sons, Inc.,

Claimant

vs.

James T. White,

Respondent

Case #88-02606
(CONSILATED w/
#88-02906)

AWARD

CASE SUMMARY

Claimant, A.G. Edwards & Sons, Inc., alleges that Respondent, who traded on margin, authorized the sale of two stocks to meet margin calls and that said sales were unable to cover the margin debit. Claimant further alleges that when Respondent refused to authorize further sales, the account was liquidated and a debit balance of \$4,587.98 remained due despite demand for payment.

Respondent denies the allegations and alleges that on October 20, 1987, he gave an order to sell 2300 shares of BioTech Research Labs (BTRL) at 11 1/4 per share and 900 shares of Cetus Corporation (CTUS) at 18 5/8 per share and that Claimant instead sold BTRL and CTUS at 8 1/8 and 12 5/8 per share, respectively. Respondent further alleges that Claimant did not have authority to sell any other securities in his portfolio and that even after the sale, there was a disparity in the sale price of these securities. Respondent also alleges that on July 8, 1986, he gave his broker, Steven Marantz, an order to sell 1100 shares of Genetech, Inc. stock at 80 5/8 per share and that the stocks were sold at 79 per share. Claimant in response to the counterclaim and claim denies the allegations and alleges that Respondent placed only market orders and that is the reason for the lower execution prices. Claimant further alleges five defenses.

RELIEF REQUESTED

Claimant requests that the Panel award it \$4,587.98 plus interest from and after October 23, 1987 at the maximum legal rate, costs and attorney's fees.

Respondent seeks an award dismissing the claim; \$13,999.00 on his counterclaim, plus interest; \$851.57 which represents a return of commissions on the sale of BTRL and CTUS securities. Respondent seeks an award for difference in the quoted price and the execution price on Genetech, Inc. security.

Claimant requests that the Panel dismiss the counterclaim and the claim for damages arising out of the July 8, 1986 transaction.

AWARD

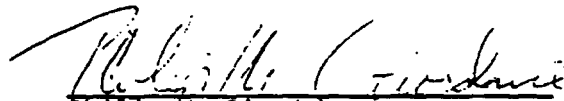
On August 17, 1989, the undersigned arbitrators heard the controversy between the parties as set forth in a submission to arbitration signed by Claimant, A.G. Edwards & Sons, Inc., on August 4, 1988 and by Respondent, James T. White on November 22, 1988. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

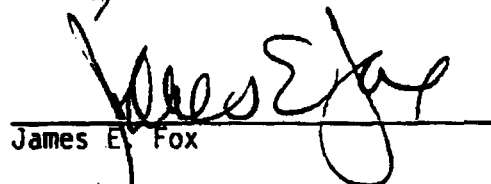
1. Respondent is hereby liable to Claimant in the amount of Four Thousand Five Hundred and Eighty-Seven Dollars and Ninety-Eight Cents (\$4,587.98).
2. The counterclaim is denied.
3. Claimant is hereby liable to Respondent on his claim for damages arising out of the transaction on July 8, 1986 in the amount of One Thousand Seven Hundred and Eighty-Seven Dollars and Fifty Cents. (\$1,787.50).
4. The award of \$4,587.98 to Claimant may be offset by the \$1,787.50 award due to Respondent, leaving a net amount due to Claimant of Two Thousand Eight Hundred Dollars and Forty-Eight Cents (\$2,800.48) from Respondent.
5. No interest is awarded on either claim.

6. The parties shall each bear their respective costs including attorneys' fees;
7. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$50.00 of the \$100.00 filing fee previously deposited by the Claimant and Respondent is assessed \$50.00 in forum costs. Claimant is assessed \$500.00 pursuant to Section 44 of the Code of Arbitration Procedures. All costs shall be made payable to the NASD.

Concurring Arbitrators


Cornelius J. McAuliffe, Esq.


Philip M. Giordano


James E. Fox

Dated: September 11, 1989