

200112

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Mary H. Sullivan

90-00182

Name of Respondent(s)

A.G. Edwards & Sons, Inc.
Richard Iannocone

Heard before:

Name	Public/Industry
Cornelius J. McAuliffe, Esq.	Public Arbitrator
Simon J. Tager	Public Arbitrator
William Aziz	Industry Arbitrator

REPRESENTATION

Claimant was represented by Marjorie Schaffner, Esq. of Beigel & Sandler, Ltd. in Chicago, Illinois. Respondents were represented by Rose Schindler, Esq. of A.G. Edwards and Sons, Inc. in St. Louis, Missouri.

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on January 16, 1990. Claimant Mary H. Sullivan alleged that Respondents A.G. Edwards and Sons, Inc. and Richard Iannacone misrepresented the risks involved in limited partnerships recommended by them to the Claimant. Claimant alleged that, after advising Respondents that her investment objectives were to preserve her capital and produce a steady income through secure and safe investments, Respondents placed her in limited partnerships that were highly speculative where there was a high degree of risk. Respondents maintained that no misrepresentations or omissions were made to the Claimant concerning the limited partnerships, that the investments were discussed at length with the Claimant including potential risks, and that the Claimant failed to act promptly to mitigate her damages.

RELIEF REQUESTED

Claimant requested actual damages of \$100,000.00, unspecified damages for the lost use of the money invested, other consequential damages, attorneys fees, and reimbursement of costs. Respondents asserted a Motion to Dismiss under Section 15 of the Code of Arbitration Procedure (Code) or any applicable state or federal statutes of limitation and further asserted a counterclaim for costs, expenses, and attorneys fees such fees not to exceed \$5,000.00.

AWARD

On January 15, 1991 in pre-hearing telephone conference and on March 5, 1991, March 6, 1991, and April 30, 1991 in Boston, Massachusetts during a hearing lasting seven (7) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant Mary H. Sullivan on July 24, 1990, by Respondent A.G. Edwards and Sons, Inc. on March 13, 1990, and by Respondent Richard Iannoccone on May 14, 1990. After considering the pleadings, the testimony, and the evidence presented at the hearing, 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) The Motion to Dismiss of the Respondents be and hereby is denied.
- (3) Respondents A.G. Edwards and Sons, Inc. and Richard Iannoccone are liable and shall pay to the Claimant Mary H. Sullivan the sum of Sixteen Thousand Four Hundred Fifteen Dollars and Twenty Six Cents (\$16,415.26). This amount is inclusive of interest. Of this amount, Respondent Richard Iannoccone shall pay to the Claimant Mary H. Sullivan the sum of Two Thousand Four Hundred Ninety Nine Dollars and No Cents (\$2,499.00), and Respondent A.G. Edwards shall pay the difference to the Claimant.
- (3) The counterclaim of the Respondents be and hereby is dismissed.
- (4) Each party shall 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 Mary H. Sullivan is assessed \$1,875.00 in forum fees.

(2) Respondents A.G. Edwards and Sons, Inc. and Richard Iannoccone 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

Cornelius J. McAuliffe, Esq.
(chairperson)

Simon J. Tager

DISSENTING ARBITRATOR

William J. Aziz
William Aziz

6,23,91

Date of Decision: By NASD July 18, 1991

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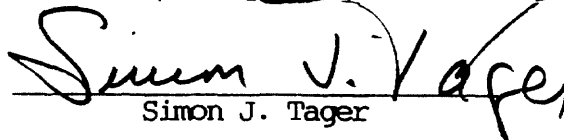
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Concurring Arbitrator(s) Signature

Cornelius J. McAuliffe, Esq.
(chairperson)


Simon J. Tager

William Aziz

Date of Decision:

June 22/91

DATED BY NASD July 18, 1991

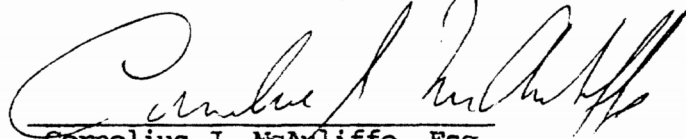
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Date of Decision: By NASD July 18, 1991