

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between	:	
George Kleback, Jr.	:	
	:	
Claimant	:	CASE #90-01980
vs.	:	AWARD
	:	
Michael Yarbrough	:	
A.G. Edwards & Sons, Inc.	:	
	:	
Respondents	:	

CASE SUMMARY

Claimant George Kleback, Jr., in a claim filed with the National Association of Securities Dealers, Inc. on July 17, 1990, alleged that Respondent and broker, Michael Yarbrough while employed at A.G. Edwards & Sons, Inc., was negligent in the handling of his account and asserts that the investment made was not suitable for his retirement account.

Respondents, in a joint Statement of Answer, maintained that according to the terms of the individual retirement account agreements signed by the Claimant, the Claimant had full responsibility for the investment of the account and the Respondents as custodians were not liable for any losses. They further state that the stock in question was an unsolicited buy order. Respondents set forth a counterclaim.

Claimant replies that he is not an experienced investor and that Mr. Yarbrough represented that he would be "managing" Claimant's IRA Account. Claimant reiterates that there is a fiduciary duty owed to the Claimant by the Respondents. He states that he never received or read the Custodian Agreement referred to in Respondent's Statement of Answer, Exhibit C.

RELIEF REQUEST

Claimant requests full return of his Eight Thousand Seven Hundred Eighty-Five Dollars and No Cents (\$8,785.00) original investment plus attorney's fees.

Respondents assert a Counterclaim for expenses incurred in bringing this action and for attorney's fees and costs of Six Hundred Thirty-Five Dollars and Five Cents (\$635.05).

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Glenn A. Delk, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant in July, 1990 and by the Respondent, A.G. Edwards & Sons, Inc. on September 7, 1990 and by the Respondent Michael Yarbrough on August 14, 1990, respectively;

1. That the Claim of George Kleback, Jr. be, and hereby is, dismissed in its entirety.
2. That Claimant is liable and shall pay to A.G. Edwards & Sons, Inc. the sum of Six Hundred Thirty-Five Dollars and Five Cents (\$635.05).
3. One Hundred Fifty Dollars and No Cents (\$150.00) of the filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, GLENN A. DELK, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATED: