

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Ruth J. Ziegelmeyer

and

*90-01994

Name of Respondent

A.G. Edwards & Sons, Inc.

REPRESENTATION OF PARTIES

For Claimant: Jerome Raskas, Esq.

For Respondent: William S. Port, Esq.
Stephen Sneeringer, Esq.

CASE INFORMATION

Statement of Claim filed: on or about July 18, 1990.

Claimant's Submission Agreement signed on: July 16, 1990
by: Ruth J. Ziegelmeyer.

Statement of Answer filed by Respondent, A.G. Edwards & Sons, Inc.
on or about: November 18, 1990.

Respondent A.G. Edwards & Sons, Inc.'s Submission Agreement signed on: November
16, 1990 by: Stephen G. Sneeringer, Esq.

HEARING INFORMATION

Pre-Hearing conference held with the chairman on:

One (1) session.

Hearing Dates: August 20, 21, and 22, 1991

October 10, 11, 14, and 15, 1991

CASE SUMMARY

Claimant Ruth J. Ziegelmeyer ("Claimant") alleged churning, misrepresentation, unsuitable investments, breach of fiduciary duty, breach of contract, fraud, violation of the securities and exchange act Section 10(b) and Rule 10b-5, and violation of Section 409.411 of the Missouri Uniform Securities Act. The aforementioned allegations arose from the solicitation of, and trading in, Claimant's account by William Martin, an investment broker of Respondent A.G. Edwards & Sons, Inc. ("Respondent") at all relevant times herein.

Claimant alleged opening a margin account on or about March 4, 1987, and alleged depositing her entire portfolio, 60 percent of her net worth, therein. Additional net payments were added between 1987 and 1989. Claimant alleged that during the time period mentioned above, William Martin and Respondent made material misrepresentations concerning investments to Claimant, and failed to make suitable investment recommendations to her in light of her income, net worth, and objectives. Claimant further alleged that neither the Respondent, nor William Martin informed her of the inherent speculative nature of margin trading, and that such trading exposed her to the risk of losing her investments. Moreover, Claimant Alleged that Respondent knew of, or recklessly ignored all misrepresentations and omissions made to the Claimant with the intent of deceiving her.

In its Statement of Answer, Respondent denied each and every allegation contained in the Statement of Claim. In addition, the Respondent asserted the following affirmative defenses:

1. Claimant's claims in counts 1, 3, 4, and 6 fail to state a claim for which relief may be granted;
2. Claimant failed to notify or object to Respondent of the acts and omissions complained of, and therefore is barred from recovering from

- the Respondent under Claimant's customer agreement;
3. Claimant is barred from recovery through the doctrines of ratification, accounts stated, estoppel, waiver, and laches;
 4. Claimant has failed to mitigate her damages;
 5. Claimant cause, or contributed to the damages alleged in the Statement of Claim;
 6. Claimant knew of the risk involved in margin trading, and voluntarily assumed the risk; and
 7. Claimant's damages were caused by market factors and conditions not in Respondent's control.

RELIEF REQUESTED

In counts 1, 3, and 7 of Claimant's Statement of Claim, the Claimant requested that the arbitration panel award her \$690,000, exclusive of interest and costs, and for such other and further relief as the panel deemed just and fair under the circumstances.

For count 2, Claimant requested that the panel award her \$930,000, exclusive of interests and costs, and for such other and further relief as the panel deemed just and fair under the circumstances.

For Counts 4, 5, and 6, Claimant requested that the panel award her \$690,000, exclusive of interest and costs, together with punitive damages in such sum as the panel felt was fair and reasonable.

Respondent requested that the panel dismiss Claimant's claim, and further requested that the arbitration panel award Respondent's costs, expenses, and attorney's fees arising in connection with its defense of this action.

OTHER ISSUES CONSIDERED & DECIDED

A motion to compel documents, made by the Claimant, was heard at the hearing. After hearing the arguments set forth, and deliberation, the panel granted Claimant's motion as to documents from Respondent's compliance department to William Martin and Charles Galli, and any documents from William Martin and Charles Galli to Respondent's Compliance department for the years 1987 through 1989.

A motion made, by the Respondent, for partial summary judgement was also submitted on the first day of the hearing. The arbitrators, after hearing from both parties, and deliberation, ruled to take up the motion at the time of the Award.

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

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

1. Respondent A.G. Edwards & Sons, Inc. is liable for, and shall pay to the Claimant, Ruth J. Ziegelmeyer, the sum of \$300,000.00 as full satisfaction for all of her claims brought herein.

OTHER COSTS

2. The costs of the proceedings are to be divided 50 percent to the Claimant Ruth J. Ziegelmeyer, and 50 percent to the Respondent A.G. Edwards & Sons, Inc. as set forth below.

FORUM FEES

Pre-Hearing conference session with the chairman: 1 x \$300 = \$300.00

Regular hearing sessions: 12 x \$1,000 = \$12,000

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$250.00 filing fee, and shall retain the hearing session deposit in the amount of \$1,000.00 previously deposited with the NASD by Claimant Ruth J. Ziegelmeyer;

Claimant Ruth J. Ziegelmeyer is liable for, and shall pay to the NASD the sum of \$5,150.00 which constitutes the remainder of her liability for one-half of the

hearing session fees for this proceeding;

Respondent A.G. Edwards & Sons, Inc. is liable for, and shall pay to the NASD the sum of \$6,150.00 which constitutes the remaining balance due for hearing session fees under this Award.

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

Dated:

December 4, 1991

Michael J. Hart

Michael J. Hart
Presiding Chair
Public Arbitrator

December 4, 1991

Richard L. Puhl

Richard L. Puhl
Public Arbitrator

December 14, 1991

Latham G. Kays

Latham G. Kays
Industry Arbitrator