



N.A.S.D. - NYSE

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, New York 10004

In the Matter of the Arbitration Between

Name of Claimant

George C. Nasir

91-00910

Name of Respondents

A.G. Edwards & Sons, Inc.
John P. Lesner

REPRESENTATION

For Claimant George C. Nasir ("Claimant"): William C. Drollinger, a sole practitioner.

For Respondents A.G. Edwards & Sons, Inc. ("AGESI") and John P. Lesner ("Lesner"): Jeff Jamieson, of AGESI.

CASE INFORMATION

Statement of Claim filed: March 1, 1991.

Claimant's Submission Agreement signed on: March 1, 1991.

Joint Statement of Answer filed by Respondents AGESI and Lesner on: May 15, 1991.

Respondent AGESI's Submission Agreement signed on: May 15, 1991.

Respondent Lesner's Submission Agreement signed on: May 21, 1991.

HEARING INFORMATION

Hearing Dates/Sessions: August 15, 1991/2 sessions.
August 16, 1991/2 sessions.

Hearing Location: Southfield, MI.

CASE SUMMARY

Claimant alleged that in early June 1986 he met Lesner (in the Warren, MI office of A.G. Edwards & Sons, Inc.) for the first time and that Lesner pointed to the registered representatives in the office and stated they lost in options trading three out of four times and that he, Lesner, was successful in options trading three out of four times. Claimant stated he then gave Lesner a check for \$2,000.00. Claimant asserted Lesner asked Claimant to send him money as he earned it or in any tax refunds he received. Claimant also stated Lesner told Claimant to acquire more credit cards, obtain money from the credit cards and give it to him for options trading. Claimant alleged Lesner said he would make up any losses.

Claimant alleged he received a letter from AGESI at the end of 1987, acknowledging his loss of \$50,000.00 and inquiring as to whether he needed any assistance. Claimant stated he spoke to Lesner regarding the letter and Lesner told Claimant to write AGESI assuring them all was well. Claimant further alleged that Lesner stated he would make the losses back. Claimant alleged Lesner knew the losses were hurting him financially.

Claimant alleged he had lost all of his money in options trading by 1988 and that he did not hear from Lesner until the end of June 1990, when Lesner sent Claimant a letter claiming expertise with theoretical money.

Claimant stated Lesner should have advised him that he was not a suitable investor for the high risks of options trading. Claimant stated Lesner held himself out as having options expertise and promised to make up Claimant's losses; recommended unsuitable investments; made excessive trades; traded without merit; churned Claimant's account; and omitted certain facts which Claimant relied on to his detriment.

Respondents alleged that Claimant told Lesner he had 10 years prior investment experience in trading options; he had \$150,000.00 net worth, \$35,000.00 annual income; \$25,000.00 total liquid net worth in cash; and his only objective was speculation. Respondents stated that at the time Claimant opened his account he executed an Option Account Agreement in which he acknowledged receiving and reading the Combined Option Disclosure Documents. Respondents maintained that on February 18, 1987, Claimant executed a Customer's Agreement in order to trade on margin. Respondents stated that Claimant informed Lesner his main goal in trading with AGESI was to attempt to eliminate a tax write-off that existed as a result of losses from prior options transactions that Claimant had incurred through trading with broker/dealers other than AGESI.

Respondents maintained Claimant initially deposited \$2,000.00 to his account on June 16, 1986. AGESI denied Lesner requested: Claimant send Lesner money as Claimant earned it; Claimant send Lesner money when Claimant received his tax refund; and Claimant obtain money from Claimant's credit cards to be used

for options trading.

Respondents alleged that Vernon A. Anderson ("Anderson"), an Associate Vice President of AGESI, brought to Claimant's attention the results of options trading activity in Claimant's account. Respondents also stated the letter requested Claimant to acknowledge the risks of options trading, the profits and losses incurred and the commissions paid to Lesner. Respondents alleged that Claimant responded to Anderson's letter by letter dated February 12, 1988 in which he acknowledged he was fully aware of the risks involved in options trading; the size and frequency of the transactions were consistent with his objectives and financial means; he examined confirmations and monthly statements on a continuous basis; was always aware of the profits and losses he was incurring; and was aware his equity decreased \$49,656.00 from February 27, 1987 through October 31, 1987. AGESI denied Lesner instructed Claimant to respond to Anderson's letter stating all was well or that Lesner promised Claimant that Lesner would make the losses back.

AGESI denied Lesner should have advised Claimant that Claimant was not a suitable investor for the high risks of options trading in that Claimant made it clear to AGESI he was willing to accept the risks of trading options.

Respondents also Counterclaimed against Claimant for the costs and attorneys' fees in defending this action, stating that Paragraph 13 of the Option Account Agreement executed by Claimant entitles them to this relief.

RELIEF REQUESTED

Claimant requested: actual damages in the amount of \$60,000.00 and punitive damages in the amount of \$40,000.00.

Respondents requested: all claims be dismissed in their entirety; costs and attorneys' fees.

AWARD

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.

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

- 1- Respondents, A.G. Edwards & Sons, Inc. and Lesner, are liable, jointly and severally, to the Claimant in the amount of FIFTEEN THOUSAND AND 00/100 (\$15,000.00);
- 2- Respondents' Counterclaim is denied;

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- 3- All other claims are dismissed;
- 4- The parties shall each bear their respective costs, including attorneys' fees.

~~Forum Fees~~
Pursuant to Section 43(c) of the Code of Arbitration Procedure, the ~~AAA~~, Inc. shall retain the \$150.00 non-refundable filing fee previously deposited by Claimant and the following Forum Fees are assessed.

4 sessions X \$750.00 = \$3,000.00.

Forum fees Assessed Against:

- 1- Claimant, in the amount of \$1,000.00. However, Claimant may use his \$500.00 hearing session deposit and his \$300.00 credit to offset part of that amount, thereby due and owing \$200.00.
- 2- Respondent A.G. Edwards & Sons, Inc., in the amount of \$1,000.00. However, A.G. Edwards & Sons, Inc. may use its \$500.00 credit to offset part of that amount, thereby due and owing \$500.00;
- 3- Respondent Lesner, in the amount of \$1,000.00.

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

ARBITRATOR SIGNATURES

/s/
Nathaniel Share/Public Arbitrator

/s/
Francis Flood/Public Arbitrator

/s/
Thomas Girardot/Industry Arbitrator

Date of Decision: September 16, 1991