

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Early H. Whitaker

91-02533

Name of Respondent(s)

A.G. Edwards & Sons, Inc.

REPRESENTATION

For Claimant: Kenneth M. Henson, Jr., Esq. of Columbus, Georgia.

For Respondent: William S. Port, Esq., in-house counsel from A.G. Edwards and Sons, Inc. in St. Louis, Missouri.

CASE INFORMATION

Statement of Claim filed: August 15, 1991.

Claimant's Submission Agreement signed on: August 12, 1991.

Respondent's Submission Agreement signed on: September 23, 1991.

Statement of Answer filed by Respondent: September 27, 1991.

HEARING INFORMATION

Hearing Dates/Sessions: February 19, 1992/two sessions

Hearing Location: Atlanta, Georgia

CASE SUMMARY

Claimant Early H. Whitaker alleged that Respondent A.G. Edwards and Sons, Inc. recommended an unsuitable investment in Putnam High Income Government Trust, misrepresenting that the investment was guaranteed and that the Claimant would receive an 11% return on his investment. Claimant alleged that he advised Respondent that he only wanted a safe investment that would preserve his principle and provide monthly income. Claimant asserted that, ultimately, part of his invested principle was used to pay his monthly

income. Respondent A.G. Edwards and Sons, Inc. maintained that the Claimant never voiced his dissatisfaction with Putnam while he held it after receiving monthly confirmations and statements, that Claimant's losses were caused, if at all, by unforeseeable market conditions, and that Claimant was aware from the outset of the risks involved in the investment.

RELIEF REQUESTED

Claimant requested damages of \$37,302.78 plus attorneys' fees. Respondent requested that the claims of the Claimant be dismissed with costs assessed against the Claimant. Respondent further requested that it be awarded attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

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 originals remain on file with the NASD.

AWARD

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

- (1) Respondent A.G. Edwards and Sons, Inc. is liable and shall pay to the Claimant the sum of Twenty-Two Thousand Five Hundred Dollars and No Cents (\$22,500.00).

OTHER COSTS

- (1) The parties shall each 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:

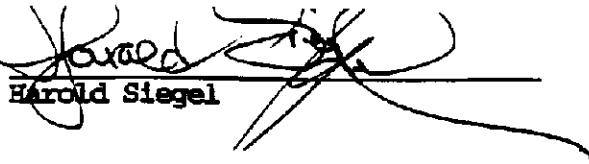
- (1) The NASD, Inc. shall retain the \$400.00 hearing session deposit previously deposited by the Claimant.
- (2) Respondent A.G. Edwards and Sons, Inc. is assessed \$400.00 in forum fees.

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

Concurring Arbitrators' Signatures

on)

Public Arbitrator


Harold Siegel

Public Arbitrator

Industry Arbitrator

Dated: April 6, 1992

Concurring Arbitrators' Signatures

James R. Marietta, Esq. (chairperson)

Public Arbitrator

Harold Siegel

Public Arbitrator

Barbara Guzman
Barbara Guzman

Industry Arbitrator

Dated: April 6, 1992

Concurring Arbitrators' Signatures

James R. Marietta
James R. Marietta, Esq. (chairperson)

Public Arbitrator

Harold Siegel

Public Arbitrator

Barbara Guzman

Industry Arbitrator

Dated: April 6, 1992