

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Robert L. Townsend

vs.

91-02905

Name of Respondent

A.G. Edwards & Sons, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 19, 1991, Claimant Robert L. Townsend, through his counsel Alexander H. Walker, III, Esq. of Van Wagoner & Stevens, Salt City, UT, alleged that Respondent A.G. Edwards & Sons, Inc. failed to follow his instructions to sell (XMI) October-Put options which he had purchased on the same day, and that his order was not executed due to an inexperienced wire operator who was processing the sale order and didn't override the computer in order to process his sale without a confirmation of the purchase. The Claimant contended that the branch manager failed to follow procedure when he told him the original purchase would be busted and when the back room wire operator failed to process his order, and that he should be compensated for his loss.

Respondent A.G. Edwards & Sons, Inc. through it's in-house counsel, Stephen G. Sneeringer, Esq., maintained that the Claimant transmitted his purchase order by directly telephoning the floor of the American Stock Exchange, Inc., and that by doing so, he did not follow the normal order execution procedure of the firm in which he would submit a written order ticket to the wire operator of the Salt Lake City office who would then transmit the order by wire to the floor of the Exchange. The Respondent further maintained that at the time the Claimant entered the sell order, no confirmation of his previous order to purchase had been received; therefore, the order to close his prior purchase order could not be confirmed. The Respondent further maintained that the Claimant did have opportunities on that day to sell the options for a profit, and that had his initial sell order been executed, he would have suffered a loss.

RELIEF REQUESTED

Claimant Robert L. Townsend requested \$2,412.48, plus interest, costs and attorney fees.

Respondent A.G. Edwards & Sons, Inc. requested the claims of the Claimant be dismissed, and that it be awarded its costs and attorney's fees.

OTHER ISSUES

Respondent A.G. Edwards & Sons, Inc.'s Motion to Strike the answer of Claimant Robert Townsend to the counterclaim is denied.

AWARD

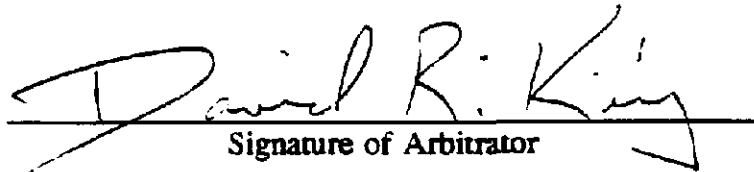
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, David R. King, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on September 6, 1991 and by the Respondent on October 24, 1991.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. **Respondent A.G. Edwards & Sons, Inc. is liable and shall pay to the Claimant Robert L. Townsend \$2,600.00 in actual damages.**
2. **Respondent A.G. Edwards & Sons, Inc. is liable and shall pay to the Claimant Robert L. Townsend's attorney fees in the amount of \$4,383.68 pursuant to Utah Code Ann., Section 78-27-56.5.**
3. **The Claimant's request for interest is denied.**
4. **The parties shall bear their respective costs.**
5. **The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.**

AFFIRMATION

I, **DAVID R. KING, 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

DATE OF DECISION: 11/30/92