

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Mark Goff

and

92-02416

Name of Respondents

A.G. Edwards & Sons, Inc. and
Marc Prda

REPRESENTATION OF PARTIES

Claimant Mark Goff was represented by Scott E. Hayes, Esq. of Vial, Hamilton, Koch & Knox, Dallas, Texas.

Respondents A.G. Edwards & Sons, Inc. and Marc Prda were represented by M. Jane Matoesian, Esq. of A.G. Edwards & Sons, Inc., St. Louis, Missouri.

CASE INFORMATION

The Statement of Claim was filed on or about July 21, 1992. Submission Agreement of Claimant Mark Goff was signed on August 11, 1992.

Statement of Answer of Respondents A.G. Edwards & Sons, Inc. and Marc Prda was filed on or about October 28, 1992. Submission Agreement of Respondent A.G. Edwards & Sons, Inc. was signed on September 17, 1992 by Stephen G. Sneringer. Submission Agreement of Respondent Marc Prda was signed on October 16, 1992.

HEARING INFORMATION

A pre-hearing conference was held on Friday, April 9, 1993 with Marc A. Myrin, Esq. presiding.

The hearing was held on Tuesday, April 14, 1993 for two (2) sessions and Wednesday, June 2, 1993 for one (1) session in Dallas, Texas for a total of three (3) hearing and one (1) pre-hearing sessions.

CASE SUMMARY

Claimant alleged that Respondents A.G. Edwards & Sons, Inc. and Marc Prda were negligent, breached their fiduciary duty owed to him, breached their contract with him, recommended investments which were unsuitable, and violated the Texas Securities Act and the Texas Deceptive Trade Practices Act. Claimant specifically alleged that Marc Prda recommended highly speculative securities which were not on the recommended list of A.G. Edwards & Sons, Inc. Those stocks were: Criticare Systems, Gamma Biologicals, Tanknology Environmental, and Span American. Claimant further alleged that Prda sold 1000 shares of Bioplasty, Inc. without his authorization.

Respondents stated that when the Claimant first opened his account, he told Respondent Prda that he was looking for someone to help him make money quickly in the stock market. Respondents further stated that the Claimant requested and insisted that Respondent Prda find him stocks to purchase which would meet his criteria and that he was not concerned whether the stocks were recommended by Respondent A.G. Edwards & Sons, Inc. Respondents further denied the allegation that the sale of Bioplasty stock was unauthorized. The following affirmative defenses were asserted by the Respondents: the Statement of Claim fails to state a claim upon which relief can be granted; the claims are barred by the doctrines of ratification, estoppel, waiver and laches; failure to mitigate; contributory negligence; and comparative negligence.

RELIEF REQUESTED

Claimant requested an award of actual damages in the amount of \$14,933.00 which represents the difference between the value of the securities at the time of purchase and the time of sale and all losses sustained, or in the alternative, rescission; unspecified punitive damages; post award interest at the highest rate permitted by law; forum fees; filing fees; reasonable and necessary attorney's fees; expert witness fees; costs; and such other and further relief to which he may be justly entitled.

Respondents requested that the claims be dismissed in their entirety and that they be awarded their costs and expenses incurred in this matter, including reasonable attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

On Wednesday, June 2, 1993 after the Claimant's case in chief and prior to offering any evidence, Respondents made a Motion for a Directed Verdict. The panel after considering the arguments presented on behalf of the parties granted the motion.

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. After consideration of the arguments presented on behalf of the parties the Motion for Directed Verdict shall be and hereby is granted.
2. Respondents Counterclaim for attorneys fees and costs shall be and hereby is denied.
3. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$120.00 and shall retain as forum fees the hearing session deposit in the amount of \$400.00 previously deposited with the NASD by the Claimant. Claimant shall pay to the N.A.S.D. the sum of \$1,100.00 as additional forum fees.

Forum fees are calculated at the rate of \$400.00 per hearing session and \$300.00 for each prehearing conference, if any.

Dated:

s/ Marc A. Myrin, Esq.
Marc A. Myrin, Esq.
Public Arbitrator, Presiding Chair

June 9, 1993

s/ James S. Raber, Esq.
James S. Raber, Esq.
Public Arbitrator

June 10, 1993

s/ David L. Baker
David L. Baker
Industry Arbitrator

June 9, 1993