

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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**In the Matter of the Arbitration Between**

**Name of Claimants**

Gordon F. Hildebrand and  
Marie B. Hildebrand

93-03924

**Name of Respondents**

A.G. Edwards & Sons, Inc.  
and Craig S. Morgan

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**REPRESENTATION OF PARTIES**

Claimants Gordon F. Hildebrand and Marie B. Hildebrand ("Claimants") were represented at the hearing Pro Se.

Respondents, A.G. Edwards & Sons, Inc. ("A.G. Edwards") and Craig S. Morgan ("Morgan") were represented at the hearing by Phyllis Hartrich, Esq. of A.G. Edwards, St. Louis, Missouri.

**CASE INFORMATION**

Statement of Claim filed by Claimants on September 27, 1993.  
Submission Agreement signed by Claimants on September 22, 1993.

Joint Statement of Answer was filed by Respondents A.G. Edwards and Morgan on November 23, 1993. Submission Agreement was signed by Stephen Sneeringer on behalf of A.G. Edwards on November 23, 1993. Submission Agreement was signed by Respondent Craig S. Morgan on November 1, 1993.

**HEARING INFORMATION**

The hearing was held on August 31, 1994 for 2 sessions and on September 1, 1994 for 2 sessions in Chicago, Illinois for a total of 4 sessions.

**CASE SUMMARY**

Claimants, Gordon and Marie Hildebrand alleged that Respondent Morgan, while acting as a broker for Respondent A.G. Edwards, persuaded them to follow a strategy of investing in index options, resulting in a loss in their account of approximately \$111,567.30 for the period from December 31, 1986 through March 27, 1987. Claimants further alleged that this investment strategy was unsuitable, and inconsistent with the conservative investment philosophy espoused by A.G. Edwards and Morgan in published articles.

Claimants further alleged that immediately prior to the October 19, 1987 market break, Morgan persuaded them to execute three short sell orders of OEX November 285 Puts, which were unsuitable in light of market conditions at that time. Claimants alleged that one of these orders (5 OEX puts) received a poor execution price. As a result of the market break, a margin call was issued necessitating the complete liquidation of the account, leaving a deficiency of approximately \$30,175. Claimants state that the total investment loss for the period from December 31, 1986 through October 19, 1987 was approximately \$241,122.83.

Claimants further state that they executed a Mutual Release and Settlement Agreement with Respondent A.G. Edwards covering only the issue of poor execution on the sale of 5 OEX Puts.

Respondents A.G. Edwards and Morgan ("Respondents") denied each and every allegation of wrongdoing contained in the Claim. Respondents stated that Claimants had experience in index options and put options and were aware of the risks involved. Respondents further stated that the Mutual Release and Settlement Agreement executed with the Claimants covered all difficulties concerning Claimants' account. Respondents set forth the following affirmative defenses in their Answer: failure to state a claim, ratification, estoppel, waiver and laches, contributory negligence, assumption of risk, statute of limitations, accord and satisfaction, and unforeseeable market factors and conditions.

#### RELIEF REQUESTED

Claimants requested damages \$146,442.49 plus interest for losses on the three OEX Put sales transactions.

Respondent requested that the Statement of Claim be denied in its entirety and that they be awarded their costs.

#### OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed by 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 the issues submitted for determination as follows:

1. The Claimants' Statement of Claim is denied in its entirety;

2. Each of the parties shall bear their own costs and expenses incurred, other than those specifically enumerated for herein.

**FORUM FEES**

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

4 hearing sessions x \$750 = \$3000.

Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$200, and shall retain the hearing session deposit in the amount of \$750 previously paid to the NASD by Claimants.

The panel has ordered that the additional forum fees in the amount of \$2250 shall be paid by the Claimants.

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

**By The Arbitration Panel:**

Dated: -  
September 26, 1994

s/s Jerome M. Katz

Jerome M. Katz, Esq., Presiding  
Public Arbitrator

September 21, 1994

s/s Stephen C. Esposito

Stephen C. Esposito, Esq.  
Public Arbitrator

September 23, 1994

s/s Donald Whiteman

Donald Whiteman  
Industry Arbitrator

Date Award Served By The NASD: October 5, 1994.