

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Jacqueline Arundell

93-04431

Name of Respondent(s)

A.G. Edwards & Sons, Inc.
Robert O'Brien

REPRESENTATION

For Claimant: Jacqueline Arundell ("Claimant"), Linda B. Kenny, Esq. in Fair Haven, New Jersey.

For Respondent: A.G. Edwards & Sons, Inc. ("Respondent"), M. Jane Matoesian, Esq., in-house Counsel in St. Louis, Missouri.

CASE INFORMATION

Statement of Claim filed: October 25, 1993

Claimant's Submission Agreement signed on: December 27, 1993.

Claimant's Addendum to the Statement of Claim filed on: November 22, 1993.

Statement of Answer and Counterclaim filed by Respondents on: March 3, 1994
Respondent's Submission Agreement filed on: March 3, 1994.

Claimant's response to Respondent's Counterclaim was filed on March 24, 1994.

HEARING INFORMATION

Hearing Dates/Sessions: November 29, 1994 -- 2 sessions

November 30, 1994 -- 2 sessions

Hearing Location: Nasd Offices 33 Whitehall Street, New York, New York 10004.

CASE SUMMARY

Claimant, a former investment broker of Respondent, A.G. Edwards & Sons, Inc., brought this arbitration proceeding seeking compensatory and punitive damages for:

- (1) alleged breach of an employment contract;
- (2) alleged breach of an implied covenant of good faith and fair dealing;
- (3) alleged tortious interference with Claimant's contractual relationships; and
- (4) defamation.

These claims arise out of Claimant's employment as an investment broker with the Sea Girt office of A.G. Edwards & Sons, Inc. No claim was made before the NASD for emotional distress for unlawful discrimination or any other matters reserved by the New Jersey courts, as more fully described below.

A Court action was filed in 1991 in the Superior court of New Jersey, Monmouth County, captioned Jacqueline Arundell v. A.G. Edwards & Sons, Inc., and Robert O'Brien, Docket No. MON-L-337-91, which was stayed by the Court.

Pursuant to order entered by the Honorable Lawrence M. Lawson, J.S. C., the claims of discrimination falling under the New Jersey law against discrimination N.J.S.A. 10:5-1 et. seq., sexual discrimination, wrongful discharge, intentional infliction of emotional distress, and damages recoverable under New Jersey law for these causes of action, against A.G. Edwards & sons, Inc., and Robert O'Brien were not submitted to the Panel. Therefore, those claims were not considered or decided by the Panel.

All claims as to Robert O'Brien or his Estate in this arbitration proceeding were withdrawn by Claimant prior to the institution of the hearing.

Respondent countered Claimant's allegations by stating Claimant's employment was voluntarily terminated due to the abandonment of her job by claimant. Furthermore, Respondent admitted that certain accounts were transferred from Merrill Lynch, Pierce, Fenner & Smith to A.G. Edwards and that Claimant serviced those few accounts, but that there was no tortious interference with prospective economic advantage. With respect to the defamation allegation, Respondent denies such allegation but explained that it had a duty to contact its customers upon the termination of employment of an investment broker who serviced those customers' accounts. Respondent

summarily denied all allegations against it. In the form of a Counterclaim, Respondent requests an award in an amount sufficient to cover the costs of defending this claim pursuant to contractual agreement with Claimant in an Option Account Agreement and a Customer's Agreement.

RELIEF REQUESTED

Claimant requested \$205,000.00 in damages, attorneys fees and costs.

Respondent requested the claim be dismissed in its entirety and that it be reimbursed the costs of defending this action and attorneys fees not to exceed \$30,000.00.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies and 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. Respondent is liable to Claimant in the amount of SEVEN THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS.
2. The forum fees shall be divided equally between the Claimant and the Respondent.
3. All requests for punitive damages are denied.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

Nonrefundable filing fee: \$ 500.00

Hearing Session Deposit (\$750.00 x 4 sessions) \$3,000.00

Total Fees: \$3,500.00

1. Claimant paid \$1250.00 and owes \$250.00.
2. Respondent owes \$1500.00.

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

Concurring Arbitrators' Signatures

Name

Public/Industry



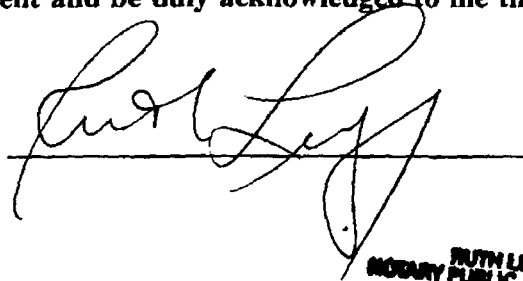
Roger M. Deitz, Esq.

NASD Date of Decision: January 18, 1995

STATE OF: New York
COUNTY OF: New York

S.S.:

On this 13 day of July, 1994, before me personally appeared Roger M. Deitz, Esq. known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

A handwritten signature in cursive script, appearing to read "Ruth Levopsky", is written over a horizontal line.

RUTH LEVOPSKY
NOTARY PUBLIC, State of New York
No. 41-4502869
Qualified in Queens County
Commission Expires June 30, 1995

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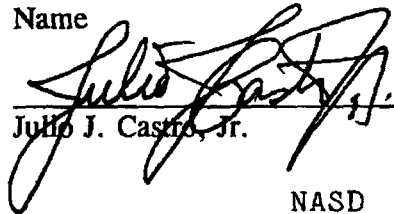
2. Respondent owes \$1500.00.

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Concurring Arbitrators' Signatures

Name

Public/Industry


Julio J. Castro, Jr.



NASD Date of Decision: January 18, 1995

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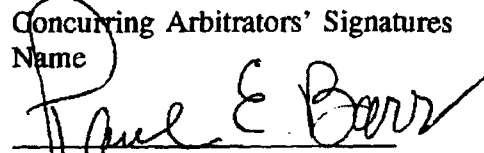
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Total Fees:	\$3,500.00

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2. Respondent owes \$1500.00.

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Concurring Arbitrators' Signatures
Name

Public/Industry


Paul E. Barr

NASD Date of Decision: January 18, 1995

STATE OF: ~~New York~~ ^{Florida}
COUNTY OF: ~~New York~~ ^{Palm Beach}

S.S.:

On this ^{9th} day of ~~January~~ ^{February} 1995, before me personally appeared Paul E. Barr known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

New Jersey 30658/61965/02206

Hurthessia Thompson

