

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

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

In the matter of the Arbitration Between

**Name of Claimant(s)**

Ron W. Hirschi  
Terry L. Hirschi

NASD Arbitration  
No. 94-01933

**Name of Respondent(s)**

A.G. Edwards and Sons, Inc.  
Michael Forbes  
Carey Wold

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**REPRESENTATION**

For Claimants: Reid E. Lewis, Esq., Salt Lake City, Utah

For Respondents: M. Jane Matoesian, Esq., A.G. Edwards and Sons,  
Inc., St. Louis, Missouri

**CASE INFORMATION**

Statement of Claim filed: May 20, 1994

Claimants' Submission Agreement signed: May 19, 1994

Joint Statement of Answer filed by Respondents: September 15, 1994

Respondents' Submission Agreements signed as follows:

A.G. Edwards and Sons, Inc.: August 29, 1994

Michael Forbes: August 31, 1994

Carey Wold: September 11, 1994

**HEARING INFORMATION**

Pre-Hearing Conference Date(s)/Session(s): None

Hearing Date(s)/Session(s): November 28, 1995 (two sessions)  
November 29, 1995 (three sessions)

Hearing Location: Salt Lake City, Utah

#### CASE SUMMARY

Referencing their investments in various securities, Claimants alleged that Respondents breached duties owed to Claimants, including but not limited to those arising under federal securities law, applicable state law, including Utah, common law, and stock exchange and National Association of Securities Dealers, Inc. (NASD) rules and regulations, in failing to obtain and convey proper information about the Claimants' financial situation, their securities transactions and their account, failing to properly supervise employees and agents of A.G. Edwards, failing to properly advise Claimants of the procedures and risks of margin trading, failing to give Claimants accurate information regarding alternatives and investment strategies, and recommending investment strategies which were designed solely to increase commissions paid to A.G. Edwards and its agents or which were not suitable for Claimants. Claimants further alleged fraud, intentional misrepresentation, reckless misrepresentation, negligent misrepresentation, breach of contract, negligence and breach of fiduciary duty.

Respondents denied Claimants' allegations of wrongdoing and alleged that Ron Hirschi, who was a financially sophisticated accountant, was well aware of the transactions occurring in Claimants' account and discussed all activities in Claimants' account with Respondent Carey Wold throughout the course of the account. Respondents further alleged that based upon Mr. Hirschi's written and oral representations, he was financially able to bear the risks of the transactions he was undertaking. Respondents also asserted affirmative defenses.

#### RELIEF REQUESTED

Claimants requested compensatory damages of at least \$112,000.00, punitive damages of at least \$300,000.00, pre-judgment and post-judgment interest at the maximum rates allowed by law, costs and attorney's fees.

Respondents requested dismissal of Claimants' claims, costs and expenses, including reasonable attorney fees.

#### OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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. All claims by Claimants, including the claim for punitive damages, are dismissed.
2. The parties shall each bear their respective costs including attorneys fees.

#### FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall retain Claimants' hearing deposit of \$750.00 as costs of this proceeding. No additional forum fees are assessed.

#### ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
David R. King, Esq.	Public Arbitrator
A.O. Headman, Jr., Esq.	Public Arbitrator
E.Y. Bennion	Industry Arbitrator

Concurring Arbitrators' Signatures

David R. King, Esq.

A.O. Headman, Jr., Esq.

E.Y. Bennion

Date of Decision: 01/10/95

**Served 1/22/96**