

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

David R. and Shelley J. Miller

95-01451

Name of Respondent

A.G. Edwards & Sons, Inc.

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on March 23, 1995, Claimants David R. and Shelley J. Miller ("Claimants"), who appeared Pro Se, alleged that Respondent A.G. Edwards & Sons, Inc. ("Respondent"), failed to properly train and supervise its agent, Warren Blom ("Blom") who provided improper information to Claimants, which they relied upon in making investment decisions to their detriment. Claimants further alleged that on November 16, 1993, Blom contacted Mr. Miller to discuss pursuing an investment in Qualcomm, Inc. ("Qualcomm") options, and that he told Mr. Miller that the Claimants would start making a profit "as soon as the price of a Qualcomm share rose above \$65. Claimants contended that they purchased the options based on Blom's representations but later discovered from a neighbor that the price had to exceed \$71.50 before making a profit. Claimants further contended that Mr. Miller called Blom, who finally agreed that he was mistaken as to how options worked. Claimants alleged that Blom agreed to repay the \$6,686.35 they lost pursuant to the Qualcomm options purchase by waiving future commission fees. Claimants contended that as a result of the above, they have suffered a loss for which the Respondent should be held liable.

Respondent A.G. Edwards & Sons, Inc., through its representative and in-house counsel, Clay L. Grumke, Esq., maintained that one of the Claimants' accounts at Edwards was a joint account and that the primary objective of this account was "speculation." Respondent maintained that the Claimants had five years of previous option investment experience and fifteen years of investment experience. Respondent further maintained that Mr. Miller had dealt with Blom since 1985, and that when Mr. Miller discovered that Blom had misinformed him about the option, he took no action to liquidate or complain to management. Respondent contended that Claimants ratified the transaction and "struck a separate deal directly with Blom" for repayment. Respondent further contended that the Claimants received the appropriate options disclosure materials at the time of their purchase, and that Claimants had adequate and proper information to make the purchase in their "speculative" option account, and that as a result of the above, Respondent should not be held liable in this matter.

**OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrator reviewed and considered all documents filed by the parties, as is within his discretion.

**RELIEF REQUESTED**

Claimants David R. and Shelley J. Miller requested \$6,686.35, in actual damages.

Respondent A. G. Edwards & Sons, Inc. requested that the claims of the Claimant be dismissed.

**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Wayne E. Gallop, Esq. was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants David R. & Shelley J. Miller on March 20, 1995, and by the Respondent A.G. Edwards & Sons, Inc. on June 9, 1995.

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. The claims of the Claimants David R. and Shelley J. Miller against Respondent A.G. Edwards & Sons, Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. 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. Respondent A.G. Edwards & Sons, Inc. is liable and shall pay to the Claimants David R. and Shelley J. Miller \$75.00 as reimbursement of one-half of the filing fee.

**AFFIRMATION**

I, **WAYNE E. GALLOP**, 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.

  
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**WAYNE E. GALLOP**

**DATE OF DECISION:**

**January 9, 1996**