

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Betty G. Price Family Trust
Betty G. Price

Case No. 95-01680

Name of Respondents

A.G. Edwards & Sons, Inc.
Jeffery L. Curtin

REPRESENTATION

For Claimants, Betty G. Price and Betty G. Price Family Trust ("Price"): Norman Meyers, Esq. of Meyers & Bierkan, P.A., of Sun City Center, Florida.

For Respondents, A.G. Edwards & Sons, Inc. ("Edwards") and Jeffery L. Curtin ("Curtin"): Catherine Hope Johnson, Esq. of A.G. Edwards & Sons, Inc., of St. Louis, Missouri.

CASE INFORMATION

Statement of Claim filed: April 4, 1995.

Claimant, Price's Submission Agreement signed on: April 20, 1995.

Claimant, Trust's Submission Agreement signed on: March 29, 1995 by Betty G. Price on behalf of Trust.

Statement of Answer filed by Respondents, Edwards and Curtin: June 19, 1995.

Respondents, Edwards and Curtin did not file Submission Agreements as required by Sections 12 and 25 of the NASD Code of Arbitration Procedure (see "Other Issues").

HEARING INFORMATION

On March 5, 1996 a Pre-hearing Conference lasting one (1) session was conducted via telephone conference with Chairperson Andrew Bolnick. On March 19 and 20, 1996 in Tampa, Florida, hearings lasting four (4) sessions were conducted.

CASE SUMMARY

Claimant alleged that Respondent, Curtin induced her into selling her entire portfolio of insured certificates of deposit and reinvesting those assets into a risky Global mutual fund and a variable annuity. That both products exposed her assets to risk against her stated objectives of safety of principal and income. That Curtin omitted material facts regarding the risks and risk factors of the investments and misrepresented and deceived Claimant for the sole purpose of commission generation to Claimant's detriment.

Claimant further alleged that Respondent, Edwards failed to properly supervise Curtin's activities, especially taking into account and ignoring commission break points on the mutual fund.

Respondents deny all allegations made by Claimant and specifically aver that all investments recommended by Curtin were suitable, conservative investments for Claimant. Among other things, Respondents specifically point to Claimant's stated investment objective of income, the fact that all risks associated with the investments were fully explained to and understood by Claimant, Claimant's past, concurrent and subsequent trading in similar investments at Merrill Lynch and Raymond James and the conservative nature of the investments themselves.

Respondents further alleged that Claimant was not damaged, because the total return of the investments recommended by Curtin in Claimant's single account and IRA resulted in a net gain of more than \$25,000 for Claimant.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$17,331.03, pre-judgment interest on the compensatory damages, costs and fees, attorney's fees, punitive damages and other such relief deemed just and proper by the Panel.

Respondents requested a dismissal of all claims, costs and expenses associated with this action, and other such relief deemed just and proper by the Panel.

OTHER ISSUES CONSIDERED & DECIDED

1. 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 originals remain on file with the NASD.
2. The Panel finds that Respondents, Edwards and Curtin were required to sign Submission Agreements pursuant to Section 12 and 25 of the Code of Arbitration Procedure because Edwards was an NASD member firm and Curtin was a person associated with an NASD member firm at the time the facts giving rise to this controversy arose.

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. Respondents, Edwards and Curtin are found liable (jointly and severally) and shall pay to the Claimant the amount of six thousand three hundred and twenty-five dollars (\$6,325.00).
2. Claimants' requests for pre-judgment interest, costs and fees, attorney's fees, and punitive damages are hereby denied.
3. Respondents' requests for costs and expenses are hereby denied.

OTHER COSTS

Other than as provided below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$1,900.00 (4 hearing sessions x \$400.00 + \$300.00 for the prehearing).

1. Claimant is hereby assessed \$950.00 for which the NASD shall retain the \$400.00 previously deposited in partial satisfaction thereof leaving a balance due to the NASD of \$550.00.

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2. Respondents are hereby assessed (jointly and severally), \$950.00, payable directly to the NASD.

3. The NASD shall retain the non-refundable filing fee of \$100.00 paid by the Claimant.

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

Concurring Arbitrators' Signatures

Name

Public/Industry

/s/
Andrew J. Bolnick

Public/Chairman

/s/
Peter W. Olsen

Industry

/s/
Robert S. Bernard

Public

Date of Decision: April 23, 1996