

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Charles K. Touchton

95-01796

Name of Respondents

A.G. Edwards & Sons, Inc.
James T. Metcalf, Jr.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 12, 1995, Claimant Charles K. Touchton ("Claimant"), who appeared Pro Se, alleged that Respondents A.G. Edwards & Sons, Inc. ("AGES"), and James T. Metcalf, Jr. ("Metcalf"), recommended that he purchase Putnam New Opportunities Fund ("PNOF") for his Individual Retirement Account ("IRA") which was done to his detriment. Claimant further alleged that he told Metcalf that he wanted his funds invested in American Fund Income Series U.S. Securities ("AIS") with the interest from AIS being invested in PNOF. However, Metcalf purchased PNOF instead of AIS for his IRA. Claimant contended that he was not informed about the load fees that he had to pay for the PNOF investment. Claimant further contended that he closed his accounts with AGES as soon as he discovered that Metcalf had made the wrong purchase. Claimant alleged that he also told Metcalf that he wanted minimal risk investments which Metcalf did not follow, and that as a result of the above, he has suffered a loss for which the Respondents should be held liable.

Respondents A.G. Edwards & Sons, Inc. and James T. Metcalf, Jr., through their representative and in-house counsel, Jeff K. Jamieson, Esq., maintained that Claimant was fully informed about the PNOF investment through conversations with Metcalf and with a prospectus. Respondents further maintained that several conversations took place with the Claimant which concerned the PNOF purchase and that Claimant confirmed his desire to purchase PNOF before Metcalf acted. Respondents contended that a confirmation slip was sent to Claimant in March of 1994, reflecting the purchase and that Claimant did not liquidate the position until July of 1994. Respondents further contended that Claimant did not complain about Metcalf's handling of the PNOF investment until January of 1995, and that this silence ratified the investment. Respondents maintained that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimant Charles K. Touchton, requested \$894.00 in actual damages.

Respondent A.G. Edwards & Sons, Inc., and James T. Metcalf, Jr., 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, Steven Meyrich, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Charles K. Touchton, on February 27, 1995, and by the Respondent A.G. Edwards & Sons, Inc., on August 7, 1995, and by Respondent James T. Metcalf, Jr., on August 3, 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 Claimant Charles K. Touchton, against Respondents A.G. Edwards & Sons, Inc. and James T. Metcalf, Jr., are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. All other relief requests are denied.
4. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Charles K. Touchton, shall be retained by the NASD, Inc.

AFFIRMATION

I, STEVEN MEYRICH, ESQ., 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.



Steven Meyrich, Esq.

DATE OF DECISION: November 2, 1995