

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Bruce E. Kibler

95-03985

Name of Respondents

A.G. Edwards & Sons, Inc.
M. Jane Matoesian

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 18, 1995, Claimant Bruce E. Kibler ("Claimant"), who appeared Pro Se, alleged that Respondent A.G. Edwards & Sons, Inc. ("A.G. Edwards") failed to follow his explicit directions and purchased options for his account to his detriment. Claimant further alleged that he agreed to follow the broker's recommendations and purchase options only because the broker had no stock recommendations for two months and because the broker told him that it would be options trading as a group. Claimant contended that his broker performed options trading despite his expressed reservations and even though the Branch Manager did not recommend it, given his previous losses. Claimant further contended that options trading was seldom discussed with him prior to the trade and that the broker chose group options trading to increase commissions. Claimant alleged that he attempted to resolve his complaints with A.G. Edwards's litigation counsel, Respondent M. Jane Matoesian, to no avail, and that as a result of the above, he has suffered a loss for which the Respondents should be held liable.

Respondent A.G. Edwards & Sons, Inc., through its representative and in-house counsel, Norman S. Buckvar, Esq., maintained that when Claimant opened his option account, he executed an Option Account Agreement and acknowledged that he understood the risks and obligations attendant to options trading. Respondent further maintained that Claimant demonstrated that he was able to bear the financial risk of loss associated with options trading. Respondent contended that Claimant does not claim that Respondent made unauthorized trades, nor does he allege that he specifically directed a broker to purchase calls for his account, and such direction was not carried out. Respondent further contended that Claimant fell victim to market fluctuation, and that he could have directed the broker to trade in any manner he believed was appropriate. Respondent further contended that Claimant always made his own investment decisions, and that as a result of the above, it should not be held liable for Claimant's loss.

Respondent M. Jane Matoesian, in her Motion for Summary Judgment filed by Norman S. Buckvar, representative and in-house counsel at A.G. Edwards, maintained that she neither participated in, nor does she have first hand knowledge of, any of the facts which constitute Claimant's complaint and that as a result, she is entitled to summary judgment and should be dismissed as a party to this proceeding.

In a reply to a Statement of Claim, Claimant reiterated the allegations in the Statement of Claim and further alleged that he was not provided with reasonable advice on managing his account. Claimant also contended that Mr. Goldsmith, a broker, maintained complete control of his account, and that Mr. Grace, a manager who approved his trades, should have denied Claimant's acceptance into the options program.

RELIEF REQUESTED

Claimant Bruce E. Kibler, requested \$9,023.59 in actual damages.

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

OTHER ISSUES CONSIDERED & DECIDED

The Arbitrator reviewed and considered M. Jane Matoesian's Motion for Summary Judgment filed on February 22, 1996. The Arbitrator granted the Motion for Summary Judgment and M. Jane Matoesian is dismissed as a party to this arbitration, prior to a determination on the merits of the case.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Hon. Charles E. Jones, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Bruce E. Kibler, on August 8, 1995, and by the Respondent A.G. Edwards & Sons Inc., on February 20, 1996, and not by Respondent M. Jane Matoesian, as required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

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 Bruce E. Kibler against Respondent A.G. Edwards and 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 Bruce E. Kibler, shall be retained by the NASD, Inc. The Respondent A.G. Edwards and Sons, Inc. shall pay to the Claimant Bruce E. Kibler \$150.00, as reimbursement of the filing fee.

AFFIRMATION


STATE OF ILLINOIS

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ss:

COUNTY OF HAMILTON

I, Charles E. Jones, 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.



Signature of Arbitrator

DATE OF DECISION: April 30, 1996 .