

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

A.G. Edwards & Sons, Inc.

95-04119

Name of Respondent

Henry V. Schultz

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 29, 1995, Claimant A.G. Edwards & Sons, Inc. ("Claimant"), through its representative and in-house counsel, Michael D. Gates, alleged that Respondent Henry V. Schultz ("Respondent"), was a former employee who failed to pay a debt owed to it prior to termination of his employment. Claimant further alleged that at the commencement of his employment, Respondent contractually agreed to be responsible for any indebtedness he incurred in its name. Claimant contended that Respondent accumulated charges of \$2,671.61 which he has refused to pay and as a result of the above, it has suffered a loss for which the Respondent should be held liable.

Respondent Henry V. Schultz, who appeared Pro Se, maintained that many of the expenses billed to his account were branch expenses and not employee expenses. Respondent further maintained that Claimant withheld his final paycheck to date and held much more money than was needed to cover his actual expenses. Respondent contended that Claimant has retaliated against him by falsely assigning charges to punish him for resigning and as a result of the above, he should not be held liable.

In a counterclaim, Respondent Henry V. Schultz, alleged that Claimant A.G. Edwards & Sons, Inc., has refused to pay him the balance of his final paycheck in the amount of \$789.90, for which the Claimant should be held liable.

RELIEF REQUESTED

Claimant A.G. Edwards & Sons, Inc., requested \$2,671.61 in actual damages, plus interest, attorneys' fees and other costs.

Respondent Henry V. Schultz, requested that the claims of the Claimant be dismissed and that it be awarded \$789.90 in actual damages, plus punitive damages. In addition, Respondent Henry V. Schultz requested that Claimant A.G. Edwards & Sons, Inc. transfer the entire remaining balance of his 401K plan within 30 days.

OTHER ISSUES CONSIDERED & DECIDED

1. The NASD administratively granted Respondent Henry V. Schultz's request for a preliminary waiver of the filing fee for the counterclaim.
2. The Arbitrator reviewed and considered the request for a hearing filed by the Claimant A.G. Edwards & Sons, Inc. The Arbitrator denied the request.
3. The Arbitrator reviewed and considered the request for an extension of time to submit additional documents filed by Claimant A.G. Edwards & Sons, Inc. The Arbitrator denied the request.

AWARD

Pursuant to Section 10 of the NASD, Inc. Code of Arbitration Procedure, a single Industry Arbitrator, Richard P. Franz, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant A.G. Edwards & Sons, Inc., on August 25, 1995, and by the Respondent Henry V. Schultz, on November 22, 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 A.G. Edwards & Sons, Inc., against the Respondent Henry V. Schultz, are dismissed in their entirety.
2. In connection with the counterclaim, Claimant A.G. Edwards & Sons, Inc. is liable and shall pay to the Respondent Henry V. Schultz, \$789.90 in actual damages.
3. The parties shall bear their respective costs.
4. All other relief requests are denied.
5. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant A.G. Edwards & Sons, Inc., shall be retained by the NASD, Inc.
6. In connection with the counterclaim, Respondent Henry V. Schultz shall pay to the NASD \$575.00 as payment for the NASD counterclaim filing fee.

AFFIRMATION

I, **RICHARD P. FRANZ**, 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.

Richard P. Franz

RICHARD P. FRANZ

DATE OF DECISION: April 1, 1996