

6/1/96

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NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Shirley J. Watson

and

NASD Case Number: 95-04856

Name of Respondents

A.G. Edwards & Sons, Inc.
Robert Michael Kelly

REPRESENTATION OF PARTIES

Claimant Shirley J. Watson was represented by Michael C. Crowley, Esq. of El Paso, Texas, and Shirley J. Watson

Respondents A.G. Edwards & Sons, Inc. and Robert Michael Kelly were represented by Phyllis A. A.G. Edwards & Sons, Inc. and Robert Michael Kelly were represented by Phyllis A. Hartrich, Esq. of A. G. Edwards & Sons, Inc. located in St. Louis, Missouri.

CASE INFORMATION

The Statement of Claim was filed with the National Association of Securities Dealers, Inc. ("NASD") by Claimant Shirley J. Watson on or about October 16, 1995.

Claimant's Submission Agreement was signed on September 29, 1995.

The Statement of Answer was filed with the NASD by Respondents A.G. Edwards & Sons, Inc. and Robert Michael Kelly on or about January 3, 1996.

Respondent A.G. Edwards & Sons, Inc.'s Submission Agreement was signed on January 3, 1996 by Stephen G. Sneeringer, Vice President and Counsel for A.G. Edwards & Sons, Inc.

Respondent Robert Michael Kelly's Submission Agreement was signed on November 27, 1995

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HEARING INFORMATION

The hearing was held on May 20, 1996 for two (2) sessions and May 21, 1996 for two (2) sessions. The hearing location was Albuquerque, New Mexico.

CASE SUMMARY

Claimant Shirley Watson ("Claimant") alleged that from 1987 through February of 1994, Claimant maintained an account with Respondent A.G. Edwards & Sons, inc. ("A.G. Edwards"), composed of conservative investments. Claimant asserted that Respondent Robert Michael Kelly, ("Kelly") was a broker with Respondent A.G. Edwards who took over Claimant's account. Claimant contended that Respondent Kelly did not acquaint himself with Claimant's goals, and did not update her investment profile when he assumed control of the account. Claimant alleged that, in March of 1994, Respondent Kelly purchased interests in the Constellation Fund, World Total Return Fund, World Equity Fund, and an OTC Fund for Claimant's account. Claimant maintained that the effect of these purchases was to remake Claimant's account from a conservative, income-producing portfolio to a high-risk, growth portfolio. Claimant alleged that neither Respondent Kelly or Respondent Kelly's supervisor was requested to make the purchases by Claimant. Claimant asserted that Respondent Kelly engage, in excessive trading for the purpose of generating excessive commissions in disregard of client interests. Claimant contended that Respondent Kelly knowingly recommended and purchased securities not suitable to Claimant's needs and financial situation. Claimant maintained that Respondent A.G. Edwards failed to insure Respondent Kelly's compliance with industry standards and the internal rules of A.G. Edwards. Claimant alleged violations of the Texas Deceptive Trade Practices Act.

Respondents A.G. Edwards, Inc. and Robert Michael Kelly denied all liability to Claimant in the Joint Statement of Answer. Respondents alleged that Respondent Kelly has numerous conversations with Claimant regarding her investment needs and risk tolerance. Respondents denied that the transactions were unauthorized and never discussed with the Claimant. Respondents asserted that the Claimant was willing to accept additional risk for the advantage of being in a mutual fund. Respondents contended that Respondent Kelly mailed the Claimant a prospectus for each of the funds under consideration. Respondents maintained that Claimant indicated that she wanted to sell her securities and purchase the mutual funds which had been discussed. Respondents denied that Respondent Kelly engaged in excessive trading or churning of Claimant's account. Respondents further denied that A.G. Edwards failed to properly supervise the activities of Respondent Kelly.

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RELIEF REQUESTED

Claimant Shirley Watson requested pecuniary damages in the amount of \$15,375.91, punitive damages in the amount of \$ 150,000, additional damages, and reasonable attorneys fees.

Respondents A.G. Edwards, Inc. and Robert Michael Kelly requested that all of the claims of the Claimant be dismissed in their entirety and that Respondents be awarded its expenses, including attorney's fees, pursuant to its contractual obligation provision with Claimant.

OTHER ISSUES CONSIDERED & DECIDED

The Motion for Directed Verdict was denied unanimously by the panel.

The parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD.

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. The Statement of Claim is hereby dismissed in its entirety with prejudice;
2. Other than forum fees which are specified below, the parties shall each bear their own respective costs and attorney's fees; and
3. Any relief not specifically enumerated is hereby denied.

FORUM FEES

Forum fees are calculated at the rate of \$750 per hearing session and \$300 per pre-hearing session, if any. There were four (4) hearing sessions x \$750= \$3,000. Total forum fees = \$3,000. Pursuant to §43(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

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Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$200 previously deposited with the NASD by the Claimant. The NASD shall retain the hearing session deposit in the amount of \$750 previously deposited with the NASD by the Claimant.

Claimant Shirley J. Watson is liable for, and shall pay forum fees in the amount of \$750.

Respondent A.G. Edwards & Sons, Inc. is liable for, and shall pay forum fees in the amount of \$1,500. Respondent A.G. Edwards & Sons, Inc. is liable for, and shall pay the Section 45 Member Surcharge in the amount of \$350.

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

Concurring Arbitrators' Signatures

/s/ Eugene W. Bronski, Esq.

June 16, 1996

Eugene W. Bronski, Esq.

Dated:

Chairperson

Public Arbitrator

/s/ Donald W. Hurst

June 28, 1996

Donald W. Hurst

Dated:

Panelist

Public Arbitrator

/s/ Kenneth R. Johnston

June 28, 1996

Kenneth R. Johnston

Dated:

Panelist

Industry Arbitrator

For NASD use only:

Date award served on the parties: July 1, 1996