

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Matthew N. Margulis

96-00032

Name of Respondents

A.G. Edwards & Sons, Inc.
Robert Mongelli

REPRESENTATION

Claimant Matthew Margulis ("Margulis") appeared Pro Se.

For Respondents A.G. Edwards & Sons, Inc. ("Edwards") and Robert Mongelli ("Mongelli"), collectively ("Respondents") appeared Hope Johnson, Esq. of A.G. Edwards, located in St. Louis, Missouri.

CASE INFORMATION

Statement of Claim filed on January 3, 1996.

Claimant's Submission Agreement signed on December 29, 1995.

Joint Statement of Answer filed by Respondents on February 23, 1996.

Respondent Edwards' Submission Agreement signed on January 24, 1996.

Respondent Mongelli's Submission Agreement signed on January 30, 1996.

HEARING INFORMATION

Hearing Date/Session: July 8, 1996 - 1 Session

The hearing was held at the offices of the National Association of Securities Dealers, Inc., located in New York, New York.

CASE SUMMARY

Claimant alleged that in January of 1991, he contacted the Respondents about opening an account with their firm. Claimant further alleged that he made known that he was knowledgeable and desired a full service broker. Claimant contended that he also said that while he has had some securities experience, he wanted to work with a broker who would do the research in recommending the buying and selling of securities.

Claimant alleged that in June of 1993, Respondents contacted him and told him that the Edwards analyst gave his highest recommendation for K-Mart preferred and these shares would be exchanged categorically, 1 preferred for 2 common in the near future. Claimant asserted that based on these recommendations, he bought 100 shares of K-Mart preferred for a principal amount of \$4325.00 and a commission of \$100.00 for a total of \$4427.00.

Claimant further alleged that he kept in close phone contact with Respondents and always asked about K-Mart's poor performance. Claimant contended that Respondent always stated that Edwards' research analyst was still very high on the stock and that Claimant would be kept informed of any fluctuations in its value.

Claimant contended that in November of 1995, he heard rumors that K-Mart may have a liquidity problem paying for its Christmas merchandise. Claimant alleged that upon hearing this news, he contacted Respondents and asked to be kept informed on the situation. Claimant asserted that the Respondents advised him to hold the stock and then never followed up with any information until Claimant requested all of Edwards' research on K-Mart be sent to him.

Claimant alleged that upon receiving the research, he found that Edwards had changed their investment rating to sell from hold and that the suitability rating was changed to speculative from aggressive. Claimant contended that at no time did Respondents tell him that Edwards had changed their outlook on the stock and he therefore held the stock as advised.

Respondents maintained that Mongelli kept Claimant informed of the status of K-Mart. Respondents contended that when the analyst changed his recommendation, Mongelli did inform Claimant and Claimant chose to hold the stock. Respondents maintained that Claimant's allegations that he would have sold the stock had he known of the changed recommendation are totally inconsistent with his own actions. Respondents contended that if this were the case, he would have sold his shares of K-Mart on November 20, 1995 when he contends he received the sell recommendation. Respondents maintained that Claimant still holds the stock and that this demonstrates he would not and did not follow the recommendation of Mongelli.

RELIEF REQUESTED

Claimant requested damages in the amount of \$3050.00.

Respondents requested:

1. the claims of the Claimant be dismissed; and

2. that Claimant be required to bear all costs.

OTHER ISSUES CONSIDERED & DECIDED

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.

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 claims of the Claimant be and hereby are denied;
2. All parties shall bear their respective costs, including attorneys' fees;
3. All other claims be and hereby are denied.

FORUM FEES


Pursuant to Section 43c of the Code of Arbitration Procedure, the arbitrators have determined that the NASD shall retain the \$50.00 non-refundable filing fee previously deposited by Claimant and have assessed the following forum fees:

1 Session x \$100.00 = \$100.00

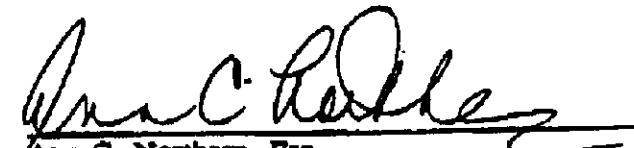
Claimant be and hereby liable for the sum of \$50.00 representing one-half of the total amount of forum fees assessed. Claimant previously deposited \$100.00 with the NASD. Therefore, Claimant shall receive a \$50.00 refund.

Respondents be and hereby are jointly and severally liable for \$50.00 representing one-half of forum fees assessed.

ARBITRATOR'S SIGNATURE


Ann Northern, Esq.

I, Ann Northern, do hereby affirm, pursuant to Article 7507 of the Civil Procedure Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.


Ann C. Northern, Esq.
Public Chairperson