

## **A W A R D**

### **NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.**

In the Matter of the Arbitration Between

Name of Claimant

Louis F. Romeo

96-01331

Names of Respondents

A.G. Edwards & Sons, Inc.  
Benjamin H. Johnson, Jr.

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### **REPRESENTATION**

For Claimant Louis F. Romeo ("Romeo"): Delmer C. Gowing III, Esq. of Delmer C. Gowing III, P.A., Delray Beach, Florida.

For Respondents A.G. Edwards & Sons, Inc. ("AGE") and Benjamin H. Johnson, Jr. ("Johnson"): Phyllis A. Hartrich, Esq. of A.G. Edwards & Sons, Inc., St. Louis, Missouri.

### **CASE INFORMATION**

Statement of Claim filed: February 13, 1996.

Claimant's Submission Agreement signed: March 21, 1996.

Joint Statement of Answer filed by Respondents: July 8, 1996.

Respondent AGE's Submission Agreement/Corporate Acknowledgment signed: July 8, 1996 by Stephen G. Sneeringer on behalf of AGE.

Respondent Johnson's Submission Agreement signed: May 31, 1996

### **HEARING INFORMATION**

On June 10 and 11, 1997 hearings lasting four (4) sessions were conducted in Fort Lauderdale, Florida.

### **CASE SUMMARY**

Claimant alleged that he was terminated on February 23, 1997 by Respondent Johnson, the AGE branch manager at the Juno Beach, Florida office of AGE; that although AGE had the right to terminate him at will, the reason for termination was wrongfully stated on his U-5 as "inappropriate office behavior." Claimant alleged that he was fired for his refusal to sell a client's stock when ordered to do so by the office manager, Respondent Johnson, which was in contradiction to that client's explicit orders and a violation of his fiduciary duty to his client as

well as the Securities and Exchange Act, SEC and NASD regulations. Claimant maintained that the statement on his U-5 was made in order to keep him from obtaining a bonus in the amount of \$2,569.00 that he had already earned and to wrongfully keep him from obtaining a pension payout in the amount of \$4,460.30. Claimant further alleged that the wrongful statement on the U-5 has reduced his transferability in the industry and cost him \$40,000.00 in up-front money; that Respondents defamed him; and, that files belonging to him were retained by Respondent Johnson.

Respondents denied all allegations of wrongdoing contained in the Statement of Claim and maintained that Claimant was terminated due to disruptive office behavior and his refusal to provide information pursuant to his supervisor's request. Respondents denied that Claimant was requested to undertake an activity that violated securities regulations or other federal or state law or that the brokers of AGE defamed the Claimant. Respondents further denied that the personal files of Claimant had been improperly withheld from him. Respondent AGE specifically asserted that the information reflected on the Uniform Termination Notice, Form U-5 was factual, appropriate and responsive to securities regulations which impose upon the firm a duty of reporting such information.

#### **RELIEF REQUESTED**

Claimant requested compensatory damages in excess of \$100,000.00 including a bonus of \$2,569.00, pension moneys due him in the amount of \$4,460.30 plus pre-judgment interest, costs, filing fees and expenses incurred in connection with this proceeding, reasonable attorneys' fees and such other relief as the panel deemed just and appropriate. Claimant further requested that the panel order Respondent AGE to amend his U-5 to reflect "termination without cause."

Respondents requested that all claims made by the Claimant be dismissed in their entirety and that AGE be awarded any and all costs and expenses incurred by it in connection with the defense of this proceeding, including attorneys' fees.

#### **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 NASD Regulation, Inc.

#### **AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents AGE and Johnson are found liable, jointly and severally, and shall pay to the Claimant compensatory damages in the amount of \$5,569.00, \$2,569.00 of which represents the requested bonus and \$3,000.00 of which represents Claimant's interest in the pension plan.
2. Claimant's U-5 shall be amended to state: "Termination without cause-no securities violations."

3. Claimant's requests for pre-judgment interest, costs, filing fees, expenses and reasonable attorneys' fees are hereby denied.

4. Respondents' requests for costs, expenses and reasonable attorneys' fees are hereby denied.

**FORUM FEES**

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the arbitration panel has assessed forum fees in the amount of \$3,000.00 (four (4) hearing sessions x \$750.00).

1. Claimant is hereby assessed forum fees in the amount of \$1,500.00 for which NASD Regulation, Inc. shall retain the \$750.00 previously deposited by Claimant in partial satisfaction thereof leaving a balance due to NASD Regulation, Inc. by Claimant of \$750.00.
2. Respondents AGE and Johnson are jointly and severally assessed forum fees in the amount of \$1,500.00 payable to NASD Regulation, Inc.
3. NASD Regulation, Inc. shall retain the claim filing fee of \$500.00 paid by the Claimant.

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

**ARBITRATION PANEL**

**Concurring Arbitrators' Signatures**

/s/

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Steven N. Ainbinder, Esq.

Public/Chairperson

/s/

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Perry Wurst

Public/Panelist

/s/

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Edward S. Burstein

Industry/Panelist