

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Allen Goodman, IRA

96-02834

Name of Respondents

A.G. Edwards & Sons, Inc.
Joseph Carbia

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 2, 1996, Claimant Allen Goodman, personal representative of the Allen Goodman Individual Retirement Account ("IRA"), who appeared Pro Se, alleged that in March of 1996, his broker Joseph Carbia ("Carbia") of A.G. Edwards & Sons, Inc., encouraged his wife Edith Goodman to, (1) approve the sale of Evergreen Aggressive Growth Fund from his IRA and, (2) invest the proceeds of the sale in U.S. Government Bonds "0" interest, maturing May 15, 2020. Claimant further alleged that Carbia did not contact him about the transactions. Claimant averred that there were many good investments in the Evergreen Aggressive Growth Fund, which had performed well over the past four years. Claimant contended that he was concerned about the bonds and also questioned their length of maturity and the "0" interest payment feature. Claimant further contended that the price of the bonds declined just weeks after their purchase. Claimant also contended that he discussed his concerns about the transactions, with Carbia and management of A.G. Edwards but they refused to make whole on the losses he suffered. Claimant asserted that he was forced to sell the bonds and repurchase the fund which he previously owned. Claimant further asserted that the sales fees, losses and aggravation could have been avoided if his concerns had been handled in a timely manner.

Respondents, A.G. Edwards & Sons, Inc., and Joseph Carbia through their representative and in-house counsel, Norman S. Buckvar, Esq., maintained that Claimant had approved of his wife making investment decisions. Respondents further maintained that Carbia had advised Claimant to diversify his portfolio which had been invested in aggressive stock funds. Respondents also maintained that Carbia's advice was consistent with Claimant's investment objectives of safety of principal, growth and income, as was listed on Claimant's New Account card. Respondent contended that Carbia had made the recommendation since Claimant did not plan to withdraw funds from the account in the foreseeable future. Respondents contended that Carbia did not intend to hold the bonds for 25 years, but felt that the investment was safe, given its accretion over time. Respondents further contended that Claimant did not complain about the trades until May of 1996, two months after he had received the confirmation. Respondents also contended that Claimant's position could have been repurchased at A.G. Edwards, at no cost to Claimant and with a \$758.75 gain if he had objected to the transaction in a timely manner. Respondents maintained that they were not responsible for Claimant's loss.

RELIEF REQUESTED

Claimant Allen Goodman, as representative of Allen Goodman IRA, requested \$7,470.40 in actual damages.

Respondents A.G. Edwards & Sons, Inc., and Joseph Carbia requested that the claims of Claimant Allen Goodman IRA be dismissed in its entirety.

AWARD

Pursuant to Section 10302 of the NASD Code of Arbitration Procedure, a single Public Arbitrator, John E. McCracken, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Allen Goodman, IRA on June 28, 1996, by Respondent A.G. Edwards & Sons, Inc., on August 16, 1996 and by Joseph Carbia on August 21, 1996.

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. Respondents A.G. Edwards & Sons, Inc., and Joseph Carbia are jointly and severally liable and shall pay to Claimant Allen Goodman, IRA \$3,991.40 in actual damages.
2. Respondents A.G. Edwards & Sons, Inc., and Joseph Carbia are jointly and severally liable and shall pay to Claimant Allen Goodman, IRA interest at the rate of 8% per annum from March 26, 1996 to the date of the award.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Allen Goodman, IRA shall be retained by the NASD, Inc. Respondents A.G. Edwards & Sons, Inc., and Joseph Carbia are jointly and severally liable and shall pay to the Claimant Allen Goodman, IRA \$150.00 as reimbursement of the filing fee.
4. All other relief requests are denied.

AFFIRMATION

I, JOHN EDWARD MC CRACKEN, ESQ., do hereby swear or affirm pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument, which is my award.


John Edward McCracken

DATE OF DECISION: January 14, 1997