

NASD Regulation Inc. AWARD

NASD Regulation, Inc.

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In the Matter of the Arbitration Between

Name of Claimant(s)

Judith M. Cordover

96-04231

Name of Respondent(s)

A.G. Edwards & Sons, Inc.

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**REPRESENTATION**

Claimant Judith M. Cordover ("Cordover") appeared pro se.

For Respondent A.G. Edwards & Sons, Inc. ("A.G. Edwards"): Jeff Jamieson, Esq. of A.G. Edwards, St. Louis, MO.

**CASE INFORMATION**

Statement of Claim filed: September 23, 1996. Claimant's Submission Agreement signed on: September 19, 1996.

Statement of Answer filed by Respondent on: November 21, 1996. Respondent's Submission Agreement signed on: November 20, 1996 by Stephen G. Sneeringer on behalf of A.G. Edwards.

**HEARING INFORMATION**

On January 13, 1997 a telephonic pre-hearing conference lasting one session was conducted with the full panel.

On March 13, 1997 a hearing lasting one session was conducted in Ft. Lauderdale, Florida.

**CASE SUMMARY**

Claimant alleged that she became aware in 1995 that bonds registered to her, which she had purchased in 1983, were in the account of another individual at Respondent A.G. Edwards. Claimant requested the return of said bonds and Respondent refused to do so.

Respondent denied all allegations of wrongdoing and alleged that the claims were barred by Rule 10304 of the NASD Code of Arbitration Procedure and all applicable statutes of limitations. Respondent alleged that Claimant was barred from recovering from Respondent under Claimant's Customer Agreement with A.G. Edwards and under Section 8-319 of the Uniform Commercial Code as enacted in the State of Connecticut. Respondent asserted affirmative defenses of ratification; account stated; estoppel; waiver; laches; failure to mitigate damages; failure to state a claim; accord and satisfaction; and, pursuant to the doctrine of payment.

### **RELIEF REQUESTED**

Claimant requested damages in the amount of \$76,645.12 inclusive of interest plus costs.

Respondent requested dismissal of the claim plus costs and expenses and such other relief as the panel deemed appropriate.

### **OTHER ISSUES CONSIDERED & DECIDED**

The Respondent filed a Motion to Dismiss all claims against it at the close of the Claimant's case. The panel deferred ruling on the motion until the close of the hearing. After reviewing the testimony and evidence presented by the parties, the panel hereby grants Respondent's Motion to Dismiss.

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 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. In light of the panel's decision to grant Respondent's Motion to Dismiss, Respondent is found not liable and, therefore, all claims against it are hereby dismissed.
2. Claimant's request for costs is denied.
3. Respondent's request for costs and expenses is denied.

NASD Regulation, Inc.

Award

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**FORUM FEES**

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the panel has assessed forum fees in the amount of \$1,000.00 (one pre-hearing conference with the full panel x \$500.00 plus one hearing session x \$500.00).

1. Claimant is hereby assessed \$1,000.00 for which NASD Regulation, Inc. shall retain the \$500.00 previously deposited by Claimant in partial satisfaction thereof, leaving a balance due to NASD Regulation, Inc. of \$500.00.
2. NASD Regulation, Inc. shall retain the \$150.00 non-refundable filing fee previously paid by Claimant.
3. NASD Regulation, Inc. shall retain the \$300.00 member surcharge previously paid by Respondent.

Fees are payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

Name

Public/Industry

Arieh Leo Douer  
Arieh Leo Douer

Public/Chairman

Judy Avey  
Judy Avey

Industry

Abe Bramnik  
Abe Bramnik

Public

Date of Decision: