

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Names of Claimants

Grady Woodrow and Susan B. Harlan, Jr.

Case No. 99-01432

Name of Respondent

A.G. Edwards & Sons, Inc.

REPRESENTATION OF PARTIES

For Grady Woodrow and Susan B. Harlan, Jr., hereinafter collectively referred to as "Claimants": Joel A. Goodman, Esq. of Goodman and Nekvasil, P.A., Clearwater, FL.

For A.G. Edwards & Sons, Inc., hereinafter referred to as "Respondent": Jeff Jamieson, Associate Vice President and Counsel, A.G. Edwards & Sons, Inc., St. Louis, MO.

CASE INFORMATION

Statement of Claim filed on or about: March 25, 1999.

Claimants signed the Uniform Submission Agreement: June 4, 1998.

Statement of Answer filed by Respondent on or about: June 25, 1999.

Respondent signed the Uniform Submission Agreement: June 16, 1999.

CASE SUMMARY

Claimants alleged unsuitable and excessive margin trading in options, equities, and commodities by their A.G. Edwards broker and branch manager, Wilford Robert Taylor. Mr. Taylor was an unsupervised producing branch manager who was allowed to mishandle and speculate with Claimants' retirement accounts. In 1995, the Arkansas securities department censured both Mr. Taylor and Respondent for their failure to supervise brokers in the branch office that handled Claimants' accounts. Further, Respondent grossly failed to supervise Taylor who recommended and used an inappropriate trading system over a period of more than six years, during which time he installed in Claimants' home (at Respondent's expense) a facsimile machine that was used to send Claimants thousands of pages of investment recommendations and research that Respondent's compliance department negligently failed to review. Claimants had no options, commodity, or margin experience prior to the time that Mr. Taylor implemented his trading system that margined Claimants' Wal-Mart stock which constituted virtually all of their retirement savings. Claimants alleged that despite a letter sent to both Benjamin F. Edwards, III (Respondent's Chief Executive Officer) and Mr. Taylor, Respondent failed to execute Claimants' direct order to halt all further trading, sell off their Wal-Mart stock, pay off the balance of their margin account,

and send the balance of the proceeds to them. Claimants asserted that they had losses in excess of \$937,000.00 and, if their account had been well managed, their Wal-Mart holdings as of the end of 1996 would be worth in excess of \$1,375,000.00. Claimants asserted causes of action against Respondent including violations of the Arkansas Securities Act; breach of contract; common law fraud; breach of fiduciary duty; negligence and gross negligence; and, unjust enrichment.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and alleged the following: Claimants traded commodities and stock options from 1988 through 1996. Claimants received and executed all appropriate risk disclosure documentation concerning option and commodities trading. Claimants' investment objective from at least 1988 forward was speculation for their individual and joint accounts. In September 1992, Claimants complained about their accounts to their broker, Mr. Taylor, and to Respondent's Chief Executive Officer, Benjamin F. Edwards, III. In response to these letters, Respondent's Compliance Director, Brian Underwood, provided Claimants with a detailed profit and loss analysis of their accounts. Respondent also offered to provide Claimants with a financial plan to address Claimants' concerns, but Claimants rejected Respondent's efforts in this regard. From that point forward, the vast majority of the activity in Claimants' account was done on an unsolicited basis. Claimants continued to trade commodities after receiving Mr. Underwood's response. Claimants withdrew more than \$600,000.00 from their joint account from August 1992 through December 1996. Claimants, from approximately 1992 forward, received facsimiles from Respondent's Rogers, Arkansas branch office detailing commodities activity in their accounts. Claimants subscribed to a commodities future trading service and received "real time quotes" at their residence, beginning in 1992. In November 1996, Claimants provided Respondent with a document that indicated Claimants possessed total liquid assets of \$1,035,000.00 and speculative capital of \$250,000.00. Further, Respondent raised the following affirmative defenses: Claimants are barred from recovering from Respondent pursuant to the various agreements Claimants signed with Respondent and under Section 8-319 of the UCC; ratification; account stated; estoppel; waiver and laches; failure to mitigate damages; contributory negligence; assumption of risks; Claimants' damages were caused by unforeseeable market factors and conditions for which Respondent is not liable or responsible; failure to state a claim; statutes of limitations; and, some of Claimants' claims are ineligible for submission to arbitration pursuant to Section 10304 of the NASD-DR Code of Arbitration Procedure (the "Code").

RELIEF REQUESTED

Claimants requested compensatory damages of approximately \$865,000.00 plus pre-judgment interest, attorneys' fees, costs, punitive damages, and such other relief as is deemed proper and necessary.

Respondent requested dismissal of the Statement of Claim, reimbursement of all costs and expenses, and for such other and further relief as the panel deemed appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

On or about June 30, 2000, Respondent filed a Motion to Dismiss Pursuant to the Applicable Statutes of Limitations and Pursuant to Section 10304 of the NASD Code of Arbitration Procedure. Claimants filed a response to the motion on or about August 9, 2000. Following argument of counsel during the evidentiary hearing, the Panel ruled that the applicable statutes of limitation were tolled, that Section 10304 of the Code was applicable, and limited Claimants' claims accordingly.

On or about October 15, 2000, Joseph E. Meyer's arbitrator classification was changed from industry to public.

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.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable and shall pay to Claimants compensatory damages in the sum of \$146,303.00 plus interest at the rate of ten percent (10%) per annum which shall accrue from December 31, 1996 until the date of payment of the Award.

Respondent is liable and shall pay to Claimants costs in the sum of \$44,356.53.

Claimants' requests for attorneys' fees and punitive damages are denied.

All other relief requests not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 375.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm, A.G. Edwards & Sons, Inc., is a party.

Member surcharge	= \$ 2,000.00
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Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 3,500.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator x \$450.00	= \$ 900.00
Pre-hearing conferences: April 4, 2000 1 session	
April 7, 2000 1 session	

One (1) Pre-hearing session with Panel x \$1,200.00	= \$ 1,200.00
Pre-hearing conference: January 21, 2000 1 session	

Seventeen (17) Hearing sessions x \$1,200.00	= <u>\$20,400.00</u>
Hearing Dates: August 14, 2000 2 sessions	
August 15, 2000 2 sessions	
August 16, 2000 2 sessions	
August 17, 2000 2 sessions	
August 18, 2000 2 sessions	
November 13, 2000 2 sessions	
November 14, 2000 2 sessions	
<u>November 15, 2000 3 sessions</u>	

Total Forum Fees	= \$22,500.00
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The Panel has assessed \$11,250.00 of the forum fees jointly and severally to Claimants.
The Panel has assessed \$11,250.00 of the forum fees to Respondent.

Fee Summary

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= <u>\$11,250.00</u>
Total Fees	= \$11,625.00
Less payments	= <u>\$ 1,575.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$10,050.00

Respondent be and hereby is solely liable for:

Member Fees	= \$ 6,100.00
Forum Fees	= <u>\$11,250.00</u>
Total Fees	= \$17,350.00
Less payments	= <u>\$ 6,100.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$11,250.00

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.

Concurring Arbitrators' Signatures

/s/

Jacquelyn M. Shannon, Esq.
Public Arbitrator, Presiding Chair

Signature Date

/s/

Joseph E. Meyer
Public Arbitrator

Signature Date

/s/

Richard J. Jones, III, Esq.
Public Arbitrator

Signature Date

December 21, 2000

Date of Service (For NASD-DR office use only)

DEC 19, 2000 6:59PM

NO. 9387 P. 6/6

N.A.S.D. Dispute Resolution, Inc.

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All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.

Concurring Arbitrators' Signatures**RECEIVED**

DEC 20 2000



Jacquelyn M. Shannon, Esq.

Public Arbitrator, Presiding Chair

EL ARBITRATION12-20-00
Signature DateJoseph E. Meyer
Public ArbitratorSignature DateRichard J. Jones, III, Esq.
Public ArbitratorSignature DateDate of Service (For NASD-DR office use only)

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.

Concurring Arbitrators' Signature

RECEIVED

DEC 20 2000

Jacquelyn M. Shannon, Esq.
Public Arbitrator, Presiding Chair

ARBITRATION

Signature Date

Joseph E. Meyer
Joseph E. Meyer
Public Arbitrator

12/19/2000
Signature Date

Richard J. Jones, III, Esq.
Public Arbitrator

Signature Date

Date of Service (For NASD-DR office use only)

DEC 19 2000 7:05PM
N.A.S.D. Dispute Resolution, Inc.
Arbitration No. 99-01432
Award Page 5

RECEIVED

C. 9337 F. 6-5

DEC 20 2000

ARBITRATION
All balances are payable to NASD Dispute Resolution, Inc. due immediately upon receipt of the Award by the parties.

Concerning Arbitrators' Signatures

Jacquelyn M. Shannon, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Joseph E. Meyer
Public Arbitrator

Signature Date

Richard J. Jones, III
Richard J. Jones, III, Esq.
Public Arbitrator

12/19/2000
Signature Date

Date of Service (For NASD-DR office use only)

Post-It® brand fax transmittal:

To: William J. Cassidy
Co. NASD Dispute Res.
Dept.
Fax # 561 561 4306