

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

John V. Piraino Revocable Trust

Case No. 99-04885

Names of Respondents

A.G. Edwards & Sons, Inc.
Randy S. Koontz

REPRESENTATION OF PARTIES

For John V. Piraino Revocable Trust, hereinafter referred to as "Claimant": John M. Scott, Esq. of the Everett Law Firm, Fayetteville, AR.

For A.G. Edwards & Sons, Inc. ("AGE") and Randy S. Koontz ("Koontz"), hereinafter referred to as "Respondents": Michael Naccarato, Esq., Litigation Counsel, A.G. Edwards & Sons, Inc., St. Louis, MO.

CASE INFORMATION

Statement of Claim filed on or about: October 29, 1999.

Claimant signed the Uniform Submission Agreement: October 21, 1999.

Statement of Answer of A.G. Edwards & Sons, Inc. and Randy S. Koontz filed on or about: January 14, 2000.

Respondent AGE signed the Uniform Submission Agreement: December 3, 1999.

Respondent Koontz did not file an executed Uniform Submission Agreement (see "Other Issues").

CASE SUMMARY

Claimant asserted the following causes of action: Failure to supervise; breach of fiduciary duty; churning; omission of facts; unsuitable trading; and, unauthorized trading. The causes of action relate to Claimant's account with Respondent AGE which was managed by Respondent Koontz.

Unless specifically admitted in their Answer, Respondents AGE and Koontz denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant's failure to timely object to any of the transactions of which he complains constitutes a ratification of these transactions and a waiver or estoppel of Claimant's right to any recovery sought in the Statement of Claim; Claimant authorized all of the trades made in his account;

Claimant failed to mitigate his damages; Claimant was contributorily negligent; and, Claimant failed to state a claim for which relief can be granted.

RELIEF REQUESTED

Claimant requested compensatory damages of \$45,629.00, punitive damages, attorneys' fees, and costs.

Respondents requested dismissal of the Statement of Claim, costs, attorneys' fees, and such other relief as the Arbitrator deemed appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Koontz did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD-DR Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Arbitrator on all issues submitted.

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 Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's Statement of Claim is dismissed in its entirety.

Claimant's request for punitive damages is 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	= \$ 175.00
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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, AGE, is a party.

Member surcharge	= \$ 800.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,000.00

Forum Fees and Assessments

The Arbitrator assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the Arbitrator, including a pre-hearing conference with the Arbitrator, 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:	
May 8, 2000	1 session
August 4, 2000	1 session
Four (4) Hearing sessions x \$450.00	= <u>\$1,800.00</u>
Hearing Dates:	
August 22, 2000	2 sessions
<u>August 23, 2000</u>	<u>2 sessions</u>
Total Forum Fees	= \$2,700.00

The Arbitrator has assessed \$1,350.00 of the forum fees to Claimant.

The Arbitrator has assessed \$1,350.00 of the forum fees jointly and severally to Respondents AGE and Koontz.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 175.00
<u>Forum Fees</u>	= <u>\$1,350.00</u>
Total Fees	= \$1,525.00
<u>Less payments</u>	= <u>\$ 625.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 900.00

Respondent AGE be and hereby is solely liable for:

<u>Member Fees</u>	= <u>\$2,400.00</u>
Total Fees	= \$2,400.00
<u>Less payments</u>	= <u>\$1,400.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1,000.00

Respondents AGE and Koontz be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= <u>\$1,350.00</u>
Total Fees	= \$1,350.00
<u>Less payments</u>	= <u>\$ 0.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1,350.00

Submission Date: 9/26/00

Submission Time: 10:00:00

All payments are due and payable to HAST-OR License Resolution, Inc.

Signature: *Johna Davis*

Johna Davis

Johna Davis, M. Ed.

10/00 10/00 10/00

9-26-00

Signature Date

Use of Funds (For HAST-OR License Resolution, Inc.)

All balances are due and payable to NASD Dispute Resolution, Inc.

Arbitrator's Signature

/s/

John A. Davis, III, Esq.
Public Arbitrator

Signature Date

September 29, 2000
Date of Service (For NASD-DR office use only)