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AWARD
NASD REGULATION, INC.

In the Matter of the Arbitration Between Marion K. Burlew, Claimant
v.
A.G. Edwards & Sons, Inc. and Robert Hodgkins, Respondents

CASE NO. 03-03765, Chicago, Illinois

2004 NASD Arb. LEXIS 1632

July 19, 2004

COUNSEL:

[*1] Marion K. Burlew ("Claimant") was represented by Lawrence M. Landsman, Esq., of Block & Landsman, located in Chicago, Illinois. A.G. Edwards & Sons, Inc., ("AGE") and Robert Hodgkins ("Hodgkins"), collectively referred to as ("Respondents"), were represented by Jeffrey W. Coverdalle, Esq., of A.G. Edwards & Sons, Inc., located in St. Louis, Missouri.

CASE-INFORMATION:

Nature of the Dispute: Customer v. Member firm and Associated Person.

The Statement of Claim was filed on or about May 23, 2003. Claimant signed the Uniform Submission Agreement on April 24, 2003.

The Joint Statement of Answer was filed by Respondents on or about August 23, 2003. Respondent AGE signed the Uniform Submission Agreement on June 9, 2003. Robert C. Hodgkins signed the Uniform Submission Agreement on June 22, 2003.

CASE-SUMMARY:

Claimant alleged as follows: Breach of fiduciary duty; failure to supervise on the part of AGE; violations of the Illinois Consumer Fraud Act; and common law fraud. Claimant's causes of action are in connection with transactions relating to Enron stock.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated as follows: the Statement of Claim and each count thereof [*2] fails to state a cause of action upon which relief can be granted; Claimant failed to act promptly and with due diligence to mitigate her damages; Claimant's claims are barred because she authorized the alleged conduct; Claimant has waived and/or is estopped from asserting these claims against Respondents by virtue of her own conduct; Claimant ratified the alleged conduct; Claimant is barred in full or part by the applicable statutes of limitation; Claimant is barred from any recovery by virtue of the doctrine of laches; Claimant is barred from recovery because she assumed the risks of the alleged conduct; Claimant did not comply with the her Client Agreement with AGE and is thus barred from recovery under the agreement; Claimant has alleged no activity or specific conduct which constitutes fraud or breach of fiduciary duty; Claimant contributed to her damages; the alleged damages were caused by market factors beyond the control of Respondents; Claimant has failed to allege a factual or legal basis for an award of attorneys' fees or punitive damages; and, violations of the rules of a self-regulatory organizations cannot constitute a cause of action under the law.

RELIEF-REQUESTED:

Claimant requested [*3] an award in the amount of \$ 300,000.00 in actual damages, \$ 100,000.00 in punitive damages,

reasonable attorneys' fees and costs.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees

OTHER-ISSUES:

Respondent Robert Hodgkins is deceased. There was no representative of his estate at the hearing.

The remaining 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 original remains on file with the NASD Dispute Resolution ("NASD").

AWARD:

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

1. Respondent A.G. Edwards & Sons, Inc. is solely liable for and shall pay to Claimant Marion K. Burlew the sum of \$ 100,000.00 in compensatory damages;
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto [*4] are denied with prejudice; and,
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

FORUM-FEES:

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 300.00
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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 that employed the associated person at the time of the event giving rise to the dispute. In this matter, the member firm is AGE.

Member surcharge	\$ 1,700.00
Pre-hearing process fee	\$ 750.00
Hearing process fee	\$ 2,750.00
Total Member Fees	\$ 5,200.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting

between the parties and the arbitrators, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings [*5] are:

1	Pre-hearing session with Panel	x	1,125.00	\$ 1,125.00
	February 13, 2004	1	session	
5	Hearing sessions	x	1,125.00	\$ 5,625.00
	July 13, 2004	2	sessions	
	July 14, 2004	2	sessions	
	July 15, 2004	1	session	
	Total Forum Fees			\$ 6,750.00

The Arbitration Panel has assessed \$ 3,375.00 of the forum fees to Claimant.
 The Arbitration Panel has assessed \$ 3,375.00 of the forum fees to Respondent AGE.

FEE SUMMARY

Claimant, Marion K. Burlew, shall be and hereby is liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 3,375.00
Total Fees	= \$ 3,675.00
Less payments	= \$ -1,425.00
Balance Due NASD Dispute Resolution	= \$ 2,250.00

Respondent, A.G. Edwards & Sons, shall be and hereby is liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 3,375.00
Total Fees	= \$ 8,575.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 3,375.00

All balances are due to NASD Dispute Resolution

ARBITRATORS:

Concurring Arbitrators: James M. Casey, Public Arbitrator, Presiding Chair; Franklin P. Auwarter, Esq., Public Arbitrator; Frank R. Niederman, Non-Public Arbitrator