

NASD OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

ARTHUR H. GUTERDING, JR.
(CRD No. 1053453),

Respondent.

Disciplinary Proceeding

No. C02050045

Hearing Officer -

COMPLAINT

Upon information and belief, Complainant alleges as follows:

1. Arthur H. Guterding, Jr. ("Respondent") was associated with A.G. Edwards & Sons, Inc. ("AGE" or "firm") from on or January 22, 2001 through September 18, 2003 as a General Securities Representative. NASD has jurisdiction to file this Complaint pursuant to Article V, Section 4 of its By-Laws.

CAUSE OF COMPLAINT

**Violations of Conduct Rules 2510(b) and 2110
(Discretion Without Written Authorization
and Unethical Conduct)**

2. Paragraph number 1 is realleged and incorporated herein by reference.

3. In March 2001, shortly after joining AGE, Respondent was placed on special supervision due to, among other things, customer complaints at his prior firm alleging unauthorized trading. In that regard, Respondent signed a Letter of Acknowledgement on or about March 20, 2001 that was submitted to AGE. The Letter of Acknowledgement stated that Respondent understood that he was prohibited from, among other things, exercising

discretionary power in customer accounts. Respondent was prohibited from exercising discretionary power during the entire time he was associated with AGE.

4. In contravention of the prohibition from exercising discretion in customer accounts, Respondent exercised discretion with respect to approximately 43 AGE customers in connection with a trading strategy involving Rydex Funds. The discretionary trading occurred on or about March 14 and 31, 2003, April 9, 2003, and June 4, 9 and 11, 2003 and involved over 150 Rydex Fund transactions. Additionally, Respondent had all 43 customers sign Limited Trading Authorization forms giving him discretion to trade Rydex Funds despite the fact that he knew, or should have known, that he was prohibited from obtaining discretionary power. Respondent did not submit the Limited Trading Authorization forms to AGE and AGE did not approve of the discretionary power that Respondent exercised in these customer accounts, which are detailed in Schedule A, attached hereto and incorporated herein.

5. By reason of the foregoing, Respondent violated Conduct Rules 2510(b) and 2110.

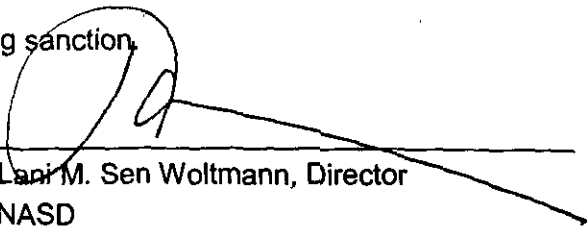
PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests:

- A. Findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. An order imposing sanctions upon the Respondent in accordance with NASD Rule 8310;
- C. An order imposing such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330; and

D. An order imposing any other fitting sanction.

Date: June 3, 2005



Lani M. Sen Woltmann, Director
NASD
300 S. Grand Avenue, Suite 1600
Los Angeles, CA 90071
(213) 229-2300; Fax: (213) 617-3299

Date: June 3, 2005



Sylvia M. Scott, Senior Counsel
NASD Department of Enforcement
300 S. Grand Avenue, Suite 1600
Los Angeles, CA 90071
(213) 613-2615; Fax: (213) 617-1570

Rory C. Flynn, Of Counsel
Department of Enforcement
NASD
1801 K Street, N.W., Suite 800
Washington, D.C. 20006
(202) 974-2874

Lewis Taylor Egan, Of Counsel
Department of Enforcement
NASD
525 Market Street, Suite 300
San Francisco, CA 94105
(415) 882.1200

SCHEDULE A

	<u>Name</u>	<u>Account #</u>	<u>Date Authorization Signed</u>
1	JOG		01/31/2003
2	TS		02/01/2003
3	WIC		02/01/2003
4	RH		02/02/2003
5	JF		02/03/2003
6	MB		02/03/2003
7	WIS		02/03/2003
8	BW		02/04/2003
9	GK		02/04/2003
10	RN		02/04/2003
11	WES		02/04/2003
12	JH		02/05/2003
13	MA		02/05/2003
14	CN		02/06/2003
15	SS		02/06/2003
16	TA		02/06/2003
17	AM		02/09/2003
18	HEH		02/10/2003
19	CM		02/11/2003
20	HAH		02/11/2003
21	WILS		02/12/2003
22	HT		02/15/2003
23	ED		03/05/2003
24	JP		03/06/2003
25	SP		03/06/2003
26	DG		03/13/2003
27	RW		03/25/2003
28	DB		03/30/2003
29	RB		03/31/2003
30	WILC		04/13/2003
31	AG		04/20/2003
32	DS		04/25/2003
33	RS		04/27/2003
34	EC		04/28/2003
35	CC		04/30/2003
36	BC		05/08/2003
37	BB		05/15/2003
38	RS		05/26/2003
39	EP		05/29/2003
40	JAG		06/30/2003
41	CS		09/15/2003
42	FA		Undated
43	SM		Undated
44	SO		Undated

RS signed the form twice (5/26/03 and 4/27/03).