

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Raymond A. and Viola M. Chesnutt JTWROS and Raymond A. Chesnutt, Claimants v. Edward D. Jones and Co., L.P., Respondent

Case Number: 01-00871

Hearing Site: Raleigh, North Carolina

REPRESENTATION OF PARTIES

For Raymond A. and Viola M. Chesnutt JTWROS, and Raymond A. Chesnutt, hereinafter referred to as "Claimants": Raymond A. Chesnutt, Raleigh, North Carolina.

For Edward D. Jones and Co., L.P., hereinafter referred to as "Respondent": Lisa A. Nielsen, Esq. and Scott J. Golde, Esq., Greensfelder, Hemker & Gale, P.C., St. Louis, Missouri.

CASE INFORMATION

Statement of Claim filed on or about: February 21, 2001.

Claimants signed Uniform Submission Agreements on: February 14, 2001 and March 8, 2001.

Statement of Answer filed by Respondent on or about: May 7, 2001.

Respondent signed the Uniform Submission Agreement on: March 22, 2001.

CASE SUMMARY

Claimants asserted the following causes of action: 1) breach of fiduciary duty; 2) common law fraud; 3) negligence; and 4) breach of contract. The causes of action relate to investments in Putnam Allstate Advisor annuity.

Respondent denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim and asserted the following defenses: 1) Claimants authorized and instructed Derek A. Roy ("Roy") to enter the transactions at issue; 2) Claimants failed to mitigate their damages and therefore, Claimants are barred from recovering any damages to the extent such damages could have been prevented had Claimants fulfilled their duty to mitigate; 3) to the extent Claimants have suffered any damages, they are the product of the negligent conduct of Claimants such that some or all of their recovery is barred by those contributory or negligent acts; 4) Claimants ratified all transactions that took place in their accounts and therefore, Claimants are barred from recovering any alleged losses resulting from such transactions; and 5) the only losses alleged by

Claimants concern alleged actions taken by Roy with regard to Claimant Raymond A. Chesnutt's individual account; therefore, Viola M. Chesnutt is not a proper party to the arbitration proceeding and should be dismissed as a claimant.

RELIEF REQUESTED

Claimants requested: 1) compensatory damages in the amount of \$33,330.00; 2) interest; 3) punitive damages in the amount of \$66,660.00, 4) costs; and 5) such other such relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondent requested in its Statement of Answer: 1) dismissal of the Statement of Claim; and 2) dismissal of Viola M. Chesnutt as a party. At the evidentiary hearing, Respondent further requested that the Panel recommend expungement of Claimants' complaint from Roy's registration records maintained by the NASD Central Registration Depository.

OTHER ISSUES CONSIDERED AND DECIDED

The parties 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, testimony, and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) All claims are denied in their entirety.
- 2) Each of the parties to this action shall bear their respective costs, including attorney's fees.
- 3) Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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 as follows:

Initial claim filing fee

= \$ 225.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member Surcharge	= \$ 1,000.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 1,500.00</u>
Total Member Fees	= \$ 3,100.00

Adjournment Fees

Adjournments requested during these proceedings:

There were no adjournments requested during these proceedings.

Forum Fees and Assessments

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

One (1) Pre-hearing session with Panel x \$ 750.00	= \$ 750.00
Pre-hearing conference: August 8, 2001 1 session	
One (1) Pre-hearing session with a single arbitrator x \$450.00	= \$ 450.00
Pre-hearing conference: November 5, 2001 1 session	
Three (3) Hearing sessions x \$750.00	= \$ 2,250.00
Hearing Dates: January 16, 2002 2 sessions	
January 17, 2002 1 session	
Total Forum Fees	= \$ 3,450.00

The Panel has assessed \$1,725.00 of the forum fees jointly and severally to the Claimants.
The Panel has assessed \$1,725.00 of the forum fees to the Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 1,725.00
Total Fees	= \$ 1,950.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 975.00

Respondent be and hereby is solely liable for:

Member Fees	= \$ 3,100.00
Forum Fees	= \$ 1,725.00
Total Fees	= \$ 4,825.00
Less payments	= \$ 3,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,725.00

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Virginia S. Carson, Esq.	-	Public Presiding Chair
Leonard Landsman	-	Public Arbitrator
Michael Lloyd Weisel, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Virginia S. Carson
Virginia S. Carson, Esq.
Public Arbitrator, Presiding Chair

2/16/02
Signature Date

Leonard Landsman
Public Arbitrator

Signature Date

Michael Lloyd Weisel, Esq.
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

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Virginia S. Carson, Esq.
Public Arbitrator, Presiding Chair


Leonard Landsman
Public Arbitrator

Signature Date

2/13/02
Signature Date

Michael Lloyd Weisel, Esq.
Non-Public Arbitrator

Signature Date

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Leonard Landsman	-	Public Arbitrator
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Concurring Arbitrators' Signatures

Virginia S. Carson, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Leonard Landsman
Public Arbitrator

Signature Date

Michael L. Weisel
Michael Lloyd Weisel, Esq.
Non-Public Arbitrator

2/12/07
Signature Date

Date of Service (For NASD Dispute Resolution office use only)