

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants/ Counter-Respondents
American DataSource, Inc.,

Case Number: 01-01433

Morgan Keegan Trust Co., FSB as Trustee for
American Funeral Plan -Texas

Edward Jones Trust Co., as Trustee for
American Funeral Trust - Ohio

U.S. Bank, N.A. as Trustee for
American Funeral Trust - Iowa

Name of the Respondents/ Counterclaimants
Philip C. Pauze
Pauze-Swanson Capital Management Company

Hearing Site: Houston, Texas

REPRESENTATION OF PARTIES

Claimants/Counterrespondents American DataSource, Inc., ("ADS") Morgan Keegan Trust Co., FSB, (Pre- 1988, and Post-1988) as Trustee for American Funeral Plan – Texas ("AFP-Tex"), Edward Jones Trust Co., as Trustee for American Funeral Trust – Ohio ("AFT-Ohio") and U.S. Bank, N.A., (successor in interest to Hawkeye Bank), as Trustee for American Funeral Trust – Iowa ("AFT-Iowa") collectively hereinafter referred to as the "Claimants": Theo W. Pinson, Esq. Houston, Texas.

Respondents/Counterclaimants Philip C. Pauze and Pauze-Swanson Capital Management Company hereinafter collectively referred to as (" Respondents"): John A. Irvine, Esq. Porter & Hedges, L.L.P., located in Houston, Texas.

CASE INFORMATION

Statement of Claim filed on or about: March 23, 2001.

First Amended Statement of Claim and Response to Counterclaim filed on or about: August 14, 2002.

Claimant American DataSource, Inc. signed the Uniform Submission Agreement: March 20,

2001.

Morgan Keegan Trust Co., FSB signed the Uniform Submission Agreement: on August 1, 2002.

U.S. Bank, N.A signed the Uniform Submission Agreement on August 8, 2002.

Kevin J. Huonker, Trust Counsel for Claimant Edward Jones Trust Co., as Trustee for American Funeral Trust -Ohio signed the Uniform Submission Agreement on August 14, 2002.

On July 5, 2002 Claimants moved for leave to file an Amended Statement of Claim.

Respondents filed a Joint Statement of Answer and Counterclaim on or about: June 5, 2001.

Respondents' First Amended Response to the Statement of Claim and Counterclaim and claim for contribution were filed on or about July 5, 2002.

Respondents filed a Supplemental Statement of Answer and Motion to Strike on or about: August 19, 2002.

Philip C. Pauze, individually and on behalf of Pauze-Swanson Capital Management Company signed the Uniform Submission Agreement May 24, 2001.

CASE SUMMARY

Claimants asserted the following causes of action:

1. Breach of Fiduciary Duty.
2. Breach of Contract.
3. Omissions of Facts.
4. Untrue Statements of Fact.
5. Unsuitability.
6. Violation of Texas Deceptive Trade Practices Act.
7. Violations of Texas Securities Act and Securities Exchange Act of 1934.
8. Violations of Texas Business and Commerce Code.

The allegations were related to the purchase and sale of securities in Claimants' managed investment account.

Unless specifically admitted in the Statement of Answer, Respondents/Counterclaimants denied the allegations made in the Statement of Claim and asserted the following defenses:

1. The Statement of Claim fails to state a claim upon which relief can be granted.
2. The Deceptive Trade Practices Act does not apply to a transaction involving

- consideration in excess of \$100,000.
3. Claimants directed and authorized all trades and are, therefore, estopped from asserting these claims and from obtaining recovery.
 4. Claimants claims are barred by the equitable principles of waiver, estoppel and ratification.
 5. Claimants failed to mitigate damages.
 6. Claimants failed to establish a claim for punitive damages.
 7. No contract exists upon which the Claimants can make a claim for breach of contract.
 8. Claimants' claims are barred by the applicable statute of limitations.
 9. Claimants suffered no damages.
 10. American DataSource, Inc. is liable for any damages incurred by claimants, as contribution.

Claimants request that Respondents Claims for Contribution and Counterclaim be denied in their entirety.

Respondents requested that the Claims against them be dismissed in their entirety.

On or about June 3, 2002 Respondents filed a Motion for Summary Judgment.

On or about July 15, 2002, Claimants filed a Response to Respondents' Motion for Summary Judgment.

On or about July 30, 2002, Respondents filed a Reply to the Response to the Motion for Summary Judgment.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages

AFT-Texas \$138,630.00

AFT -Ohio \$ 63,399.00

AFT- Iowa \$ 34,217.00

ADS \$ 20,000.00

Punitive/exemplary Damages

Not Specified

Interest

Not Specified

Attorneys' Fees

Not Specified

Other Costs

Not Specified

Plus other Monetary Relief:

"Miley" damages

AFP- Texas \$ 335,708.00

AFT-Ohio \$ 120,014.00

AFT-Iowa \$ 49,294.00

Total Damages

\$ 761,262.00

Respondents request that the Panel enter an award denying Claimants/Counter-Respondents requested relief and awarding to Counterclaimants their damages consisting of:

Interest
Attorneys' Fees
Other Costs
Plus other Monetary Relief

Not Specified
Not Specified
Not Specified
Contribution from ADS
for sums, if any, awarded
to Claimants

OTHER ISSUES CONSIDERED & DECIDED

On July 23, 2002 the Panel granted Respondents' Motion for leave to file a first Amended Response and Counterclaim.

The Panel denied Respondents' Motion for Summary Judgment on or about July 23, 2002.

The panel granted Claimants' request for leave to amend their pleadings to name the Trustees as Claimants and to amend their damage calculations.

The Panel deferred judgment on Respondents' Motion to Strike Claimants' Amendment for "Miley" damages until the conclusion of the evidence and oral argument on this issue. The Panel denied Respondents Motion to Strike.

At the close of Claimants' presentation of evidence the Respondents moved to dismiss based on the applicable Statutes of Limitation. The Panel denied Respondents' Motion to Dismiss.

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:

1. Any and all claims asserted against Respondent Philip C. Pauze are dismissed, with prejudice;
2. Respondent Pauze-Swanson Capital Management Company is solely liable for and shall pay to Claimant Morgan Keegan Trust Co., FSB as Trustee for American Funeral Plan-Texas the sum of One Hundred and Two Thousand Six Hundred and Ninety Dollars and No Cents (\$102, 690.00) in Damages;
3. Respondent Pauze-Swanson Capital Management Company is solely liable for and shall pay to Claimant Edward Jones Trust Co., as Trustee for American Funeral Trust- Ohio the sum of Forty-Six Thousand Nine Hundred and Seventy Dollars and No Cents (\$46,970.00) in Damages;
4. Respondent Pauze-Swanson Capital Management Company is solely liable for and shall pay to Claimant U.S. Bank N. A. as Trustee for American Funeral Trust- Iowa the sum of Twenty-Five Thousand Three Hundred and Forty Dollars and No Cents (\$25, 340.00) in

Damages;

5. Respondent Pauze-Swanson Capital Management Company is solely liable for and shall pay to Claimant Morgan Keegan Trust Co., FSB as Trustee for American Funeral Plan-Texas, simple interest at a rate of ten percent (10%) per annum on the Award for Damages, which shall begin to accrue thirty (30) days after the date of service of this award and will cease to accrue upon payment of the award;
6. Respondent Pauze-Swanson Capital Management Company is solely liable for and shall pay to Claimant Edward Jones Trust Co., as Trustee for American Funeral Trust -Ohio, simple interest at a rate of ten percent (10%) per annum on the Award for Damages, which shall begin to accrue thirty (30) days after the date of service of this award and shall cease to accrue upon payment of the award;
7. Respondent Pauze-Swanson Capital Management Company is solely liable for and shall pay to Claimant U.S. Bank N.A. as Trustee for American Funeral Trust-Iowa, simple interest at a rate of ten percent (10%) per annum on the Award for Damages, which shall begin to accrue thirty (30) days after the date of award and shall cease to accrue upon payment of the award;
8. Respondent Pauze-Swanson Capital Management Company is solely liable for and shall pay to Claimants Morgan Keegan Trust Co., FSB as Trustee for American Funeral Plan-Texas, Edward Jones Trust Co., as Trustee for American Funeral Trust-Ohio, and U.S. Bank N.A. as Trustee for American Funeral Trust - Iowa the sum of Fifty Thousand Dollars and No Cents (\$50,000.00) as attorney's fees. Upon review of the parties arguments and submissions, the Panel determined that authority exists for an award of attorney's fees to the Claimants under Texas Civil Practice & Remedies Code section 38.001;
9. Respondent Pauze-Swanson Capital Management Company is solely liable for and shall pay Claimants Morgan Keegan Trust Co., FSB as Trustee for American Funeral Plan-Texas, Edward Jones Trust Co., as Trustee for American Funeral Trust -Ohio, and U.S. Bank N.A. as Trustee for American Funeral Trust-Iowa the sum of Twenty-five Thousand Dollars (\$25,000) as reimbursement for Costs;
10. Respondent Pauze-Swanson Capital Management Company is solely liable for and shall pay to Claimants Morgan Keegan Trust Co., FSB as Trustee for American Funeral Plan-Texas, Edward Jones Trust Co., as Trustee for American Funeral Trust -Ohio, and U.S. Bank N.A. as Trustee for American Funeral Trust-Iowa Three Hundred and Seventy Five Dollars and No Cents (\$375.00) as reimbursement for the Claimants' filing fee pursuant to 10332(c) of the NASD Code of Arbitration Procedure;
11. Any and all claims asserted by Claimant American DataSource, Inc. are denied in their entirety;
12. Any and all claims asserted by Respondents Philip C. Pauze and Pauze-Swanson Capital

Management Company in their Counterclaim are denied in their entirety;

13. Any and all claims asserted by Respondents Philip C. Pauze and Pauze-Swanson Capital Management Company in their Claim for Contribution are denied in their entirety

14. Except as otherwise specified herein, each party shall bear its own costs and attorney's fees and;

15. Any and all relief not specifically granted herein is denied.

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	= \$ 375.00
Counterclaim Filing Fee	= \$ 250.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 \$1,200.00	= \$1,200.00
Pre-hearing conference: January 23, 2002	

Thirteen (13) Hearing sessions X \$1,200.00	= \$15,600.00
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Hearing Dates:	August 19, 2002	3 sessions
	August 20, 2002	2 sessions
	August 21, 2002	2 sessions
	August 22, 2002	3 sessions
	August 23, 2002	2 sessions
	August 26, 2002	1 session

Total Forum Fees	= \$ 16,800.00
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The Arbitrator Panel has assessed the entire \$16,800.00 of the forum fees to Respondent Pauze-Swanson Capital Management Company.

Fee Summary

1. Claimants American Data Source Inc, Morgan Keegan Trust Co., FSB as Trustee for

American Funeral Plan-Texas, Edward Jones Trust Co., as Trustee for American Funeral Trust-Ohio, and U.S. Bank N.A. as Trustee for American Funeral Trust -Iowa are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Total Fees	= \$ 375.00
Less payments	= \$ 1,250.00
Refund Due from NASD Dispute Resolution	= \$ 875.00

2. Respondent Pauze-Swanson Capital Management Company is solely liable for:

Counterclaim filing Fees	= \$ 250.00
Forum Fees	= \$ 16,800.00
Total Fees	= \$ 17,050.00
Less payments	= \$ 0
Balance Due NASD Dispute Resolution, Inc.	= \$ 17,050.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Jerry C. Prestridge, Esq.	-	Public Arbitrator, Presiding Chair
Donald K. Eckhardt, Esq.	-	Public Arbitrator
Walter F. Schleyer	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jerry C. Prestridge, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Donald K. Eckhardt, Esq.
Public Arbitrator

Signature Date

Walter F. Schleyer
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution

Arbitration No. 01-01433

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American Funeral Plan-Texas, Edward Jones Trust Co., as Trustee for American Funeral Trust-Ohio, and U.S. Bank N.A. as Trustee for American Funeral Trust -Iowa are jointly and severally liable for:

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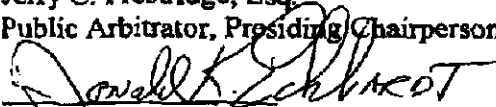
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