

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

David F. Crandall and Lucy O. Crandall, Trustees U/A for Crandall Family Trust, Claimants v.  
Edward D. Jones & Co. and James D. Belenis, Respondents

Case Number: 02-05038

Hearing Site: San Francisco, California

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**REPRESENTATION OF PARTIES**

For Claimants:

Mitchell S. Ostwald, Esq.  
Law Offices of Mitchell S. Ostwald  
San Francisco, California

For Respondents:

David M. Harris, Esq.  
Greensfelder, Hemker & Gale  
St. Louis, Missouri

**CASE INFORMATION**

Statement of Claim filed: August 26, 2002

Claimants' Uniform Submission Agreement signed: August 22, 2002

Joint Statement of Answer filed by Respondents Edward D. Jones & Co. and James D. Belenis:  
November 18, 2002

Respondent Edward D. Jones & Co.'s Uniform Submission Agreement signed:  
September 27, 2002

Respondent James D. Belenis' Uniform Submission Agreement signed: October 3, 2002

### **CASE SUMMARY**

Claimants alleged unsuitability, negligence, misrepresentation, omission, fraud, breach of fiduciary duty, failure to supervise, and intentional infliction of emotional distress. The dispute involved America On-line, Cisco Systems, CMGI, Inc., Gemstar International Group, Globix Corporation, Microsoft Corporation, Network Appliance, RF Micro Devices, Inc., Lucent Technologies, Verisign, Inc., and YAHOO, Inc. stocks.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$440,000.00, unspecified punitive damages, disgorgement of all ill-gotten gains, reimbursement of commissions and/or compensation, reimbursement of filing fees, interest and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On January 21, 2003, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On December 26, 2002, Respondents' counsel signed a Waiver Agreement on behalf of Respondents Edward D. Jones & Co. and James D. Beleniz expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

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, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable to and shall pay Claimants the sum of \$10,000.00 in compensatory damages.
2. The parties shall bear their respective costs, including attorney's fees.
3. All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

|                          |             |
|--------------------------|-------------|
| Initial claim filing fee | = \$ 300.00 |
|--------------------------|-------------|

#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the Respondent Edward D. Jones & Co. is a party and the following fees are assessed:

|                            |                      |
|----------------------------|----------------------|
| Member Surcharge           | = \$ 1,700.00        |
| Pre-Hearing Process Fee    | = \$ 750.00          |
| <u>Hearing Process Fee</u> | <u>= \$ 2,750.00</u> |
| <b>Total Member Fees</b>   | <b>= \$ 5,200.00</b> |

#### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel. The following fees are assessed:

|  |               |
|--|---------------|
| One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session | = \$ 1,125.00 |
| Pre-hearing conference: February 6, 2003 1 session                         |               |

|  |                |
|--|----------------|
| Nine (9) Hearing sessions @ \$1,125.00/session | = \$ 10,125.00 |
| Hearings:                                      |                |
| June 11, 2003 2 sessions                       |                |
| June 12, 2003 2 sessions                       |                |
| June 13, 2003 2 sessions                       |                |
| July 15, 2003 2 sessions                       |                |
| July 16, 2003 1 session                        |                |

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|                         |                       |
|-------------------------|-----------------------|
| <b>Total Forum Fees</b> | <b>= \$ 11,250.00</b> |
|-------------------------|-----------------------|

1. The Panel assessed \$7,875.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$3,375.00 of the forum fees jointly and severally to Respondents.

**Administrative Costs**

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

|   |                    |
|---|--------------------|
| 1. Respondent Edward D. Jones & Co. requested copies of Awards: | = \$ 25.00         |
| 2. Respondent Edward D. Jones & Co. requested copies of Tapes:  | = \$ 180.00        |
| <b>Total Administrative Costs</b>                               | <b>= \$ 205.00</b> |

**Fee Summary**

|  |                 |
|--|-----------------|
| 1. Claimants David F. Crandall and Lucy O. Crandall, TTEES U/A for Crandall Family Trust, are charged jointly and severally with the following fees and costs: |                 |
| Initial Filing Fee   | = \$ 300.00     |
| Forum Fees   | = \$ 7,875.00   |
| Total Fees   | = \$ 8,175.00   |
| Less payments  | = \$( 1,425.00) |
| Balance Due NASD Dispute Resolution  | = \$ 6,750.00   |
| 2. Respondent Edward D. Jones & Co. is charged with the following fees and costs:  |                 |
| Member Fees  | = \$ 5,200.00   |
| Administrative Costs   | = \$ 205.00     |
| Total Fees   | = \$ 5,405.00   |
| Less payments  | = \$( 5,405.00) |
| Balance Due NASD Dispute Resolution  | = \$ 0.00       |
| 3. Respondents Edward D. Jones & Co. and James D. Belenis are charged jointly and severally with the following fees and costs:                                 |                 |
| Forum Fees   | = \$ 3,375.00   |
| Less payments  | = \$( 0.00)     |
| Balance Due NASD Dispute Resolution  | = \$ 3,375.00   |

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

**ARBITRATION PANEL**

|                           |   |   |
|---------------------------|---|---|
| <b>David Zebker</b>       | - | <b>Public Arbitrator, Presiding Chair</b> |
| <b>Arturo Maimoni</b>     | - | <b>Public Arbitrator</b>                  |
| <b>Jane F. Gundermann</b> | - | <b>Non-Public Arbitrator</b>              |

**Concurring Arbitrators' Signatures**

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David Zebker  
Chair, Public Arbitrator

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Signature Date

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Arturo Maimoni  
Public Arbitrator

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Signature Date

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Jane F. Gundermann  
Non-Public Arbitrator

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Signature Date

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Date of Service

**ARBITRATION PANEL**

|                    |   |                                    |
|--------------------|---|------------------------------------|
| David Zebker       | - | Public Arbitrator, Presiding Chair |
| Arturo Maimoni     | - | Public Arbitrator                  |
| Jane F. Gundermann | - | Non-Public Arbitrator              |

**Concurring Arbitrators' Signatures**

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David Zebker  
Chair, Public Arbitrator

\_\_\_\_\_  
Signature Date

*A. Maimoni*  
Arturo Maimoni  
Public Arbitrator

8/8/02  
Signature Date

\_\_\_\_\_  
Jane F. Gundermann  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

8/8/03  
Date of Service

ARBITRATION PANEL

David Zebker  
Arturo Maimoni  
Janc F. Gundermann

- Public Arbitrator, Presiding Chair  
- Public Arbitrator  
- Non-Public Arbitrator


Co-signing Arbitrators' Signatures

\_\_\_\_\_  
David Zebker  
Chair, Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Arturo Maimoni  
Public Arbitrator

\_\_\_\_\_  
Signature Date

  
Janc F. Gundermann  
Non-Public Arbitrator

8/8/03  
Signature Date

8/8/03  
Date of Service