

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

Helen R. Peltason, Harold C. Scharff,
Joyce A. Scharff and Gregory S. Matthews,
Trustees of the Scharff Family Living Trust dtd 3/4/93

Case Number: 02-05051

Name of the Respondents

Edward D. Jones & Co. and
Gary V. Schwendinger

Hearing Site: St. Louis, Missouri

NATURE OF DISPUTE

Customer vs. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Steven W. Koslovsky, Esq. of the Law Offices of Steven Koslovsky located in St. Louis, Missouri, represented Claimants, Helen R. Peltason, Harold C. Scharff, Joyce A. Scharff and Gregory S. Matthews, Trustees of the Scharff Family Living Trust dtd 3/4/93, ("Scharff Family"), hereinafter collectively referred to as "Claimants."

J. Christopher Wehrle, Esq. of the law firm Goldberg Katz, LLC located in St. Louis, Missouri represented Respondent, Edward D. Jones & Co. ("Edward Jones"), hereinafter referred to as "Respondent."

Respondent, Gary Van Schwendinger ("Van Schwendinger"), did not file an appearance and did not appear at the hearing of this matter.

CASE INFORMATION

Joint Statement of Claim filed on August 28, 2002.

Claimants, Harold C. Scharff and Joyce A. Scharff, Trustees of the Scharff Family Living Trust dtd 3/4/93, jointly signed the Uniform Submission Agreement on August 6, 2002.

Claimant, Helen R. Peltason, Trustee of the Scharff Family Living Trust dtd 3/4/93, signed the Uniform Submission Agreement on August 6, 2002

Claimant, Gregory S. Matthews, Trustee of the Scharff Family Living Trust dtd 3/4/93, signed the Uniform Submission Agreement on August 8, 2002.

Statement of Answer filed by Respondent, Edward D. Jones & Co., on November 21, 2002.

Respondent, Edward D. Jones & Co., signed the Uniform Submission Agreement on September 24, 2002.

Respondent, Gary V. Schwendinger, did not file a Statement of Answer and did not submit a signed Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: unauthorized transactions, omission of facts, suitability, breach of fiduciary duty, failure to supervise and violation of Missouri Securities Acts and Laws. The cause of action relate to various stocks including, Exxon, Verizon Communication, Quest and SBC Communication, Bristol-Myers, Squibb, May Department Stores, Bell South and DuPont. Other orders involved purchase investments in Van Kampen High Income Corporate Bond Fund, Class B shares in American Funds Mutual funds, American Balanced Fund and Income Fund of America. Claimants alleged that these investments were unsuitable and did not meet their needs and investment objectives.

Unless specifically admitted in its Answer, Respondent, Edward D. Jones & Co. denied the allegations made in the Statement of Claim and asserted that there was no unauthorized or unsuitable activity with Claimants' accounts. Further, Edward Jones sent frequent and timely information to Claimants regarding their accounts and investments, therefore, there were no misrepresentations to Claimants by Edward Jones. Edward Jones adequately supervised Gary Schwendinger in accordance with its supervisory policy. Claimants' accounts were suitable and handled in accordance with their respective investment objectives. Claimants do not specify a particular section of Missouri Securities Act. However, subject to such lack of specificity, at no time does Edward Jones conduct with respect to these accounts amount to a "scheme or artifice to defraud."

RELIEF REQUESTED

Claimant, Helen R. Peltason, Trustee for Scharff Family Living Trust dtd 3/4/93 requested:

Compensatory Damages	\$ 75,000.00
Punitive Damages	\$250,000.00
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	unspecified

Claimants, Harold C. and Joyce A. Scharff, Trustees for Scharff Family Living Trust dtd 3/4/93 requested:

Compensatory Damages	\$ 50,000.00
Punitive Damages	\$250,000.00
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	unspecified

Claimant, Gregory S. Matthews, Trustees for Scharff Family Living Trust dtd 3/4/93 requested:	
Compensatory Damages	\$ 25,000.00
Punitive Damages	\$100,000.00
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	unspecified

Respondent, Edward D. Jones & Co. requested that all claims in Claimants' Statement of Claim be dismissed in its entirety and for such other relief as is just and fair.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimants, the undersigned Panel determined that Respondent, Gary Van Schwendinger was properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent, Gary Van Schwendinger, did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

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, 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. Respondents, Edward D. Jones & Co. and Gary V. Schwendinger, are jointly and severally liable for and shall pay to Claimant, Gregory S. Matthews, Trustee of the Scharff Family Living Trust dtd. 3/4/93 the sum of \$2,700.00 as compensatory damages.
2. Respondents, Edward D. Jones & Co. and Gary V. Schwendinger, are jointly and severally liable for and shall pay to Claimants, Helen R. Peltason, Harold C. Scharff, Joyce A. Scharff and Gregory S. Matthews, Trustees of the Scharff Family Living Trust dtd 3/4/93, the sum of \$375.00 as reimbursement for the non-refundable NASD Dispute Resolution claim filing fee.
3. Parties shall bear their own costs, including attorneys' fees, except as specified herein.
4. Any and all relief not specifically addressed herein, including punitive damages, 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

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 events giving rise to the dispute. Accordingly, Edward D. Jones & Co. is a party and is assessed the following fees:

Member surcharge = \$2,250.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$4,000.00

Total Fees = \$7,000.00

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 @ \$1,200.00 = \$1,200.00

Pre-hearing conference: May 7, 2003 1 session

Two (2) Hearing sessions @ \$1,200.00 = \$2,400.00

Hearing Date: November 11, 2003 2 sessions

Total Forum Fees = \$3,600.00

The Panel has assessed 100% of the total forum fees in the amount of \$3,600.00 jointly and severally to Respondents, Edward D. Jones & Co. and Gary C. Schwendinger.

Fee Summary

1. Claimants, Helen R. Peltason, Harold C. Scharff, Joyce A. Scharff and Gregory S. Matthews, Trustees of the Scharff Family Living Trust dtd. 3/4/93, are severally liable for:

Initial Filing Fee = \$ 375.00

Less payments = \$1,575.00

Balance Refunded by NASD Dispute Resolution = \$1,200.00

2. Respondent, Edward D. Jones & Co., is solely liable for:

Member Fees = \$7,000.00

Less payments = \$7,000.00

Balance Due NASD Dispute Resolution = \$ 0.00

3. Respondents, Edward D. Jones & Co. and Gary V. Schwendinger, are jointly and severally liable for:

Forum Fees	= \$3,600.00
<u>Less Payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$3,600.00

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

ARBITRATION PANEL

Walter N. Vernon, III	-	Public Arbitrator, Presiding Chairperson
Julius Z. Frager	-	Public Arbitrator
Joseph P. Keaveny, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Walter N. Vernon, III
Public Arbitrator, Presiding Chairperson

12/19/03
Signature Date

Julius Z. Frager
Public Arbitrator

12/19/03
Signature Date

Joseph P. Keaveny, Esq.
Non-Public Arbitrator

12/18/03
Signature Date

12/19/03
Date of Service (For NASD Dispute Resolution use only)

3. Respondents, Edward D. Jones & Co. and Gary V. Schwendinger, are jointly and severally liable for:

Forum Fees	= \$3,600.00
<u>Less Payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$3,600.00

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12/19/03
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NASD Dispute Resolution
 Arbitration No. 01-05051
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12/18/2003
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