

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

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In the Matter of the Arbitration Between:

David Beard, Claimant v. Edward D. Jones & Co., L.P. and Lawrence S. Kerson, Respondents

Case Number: 02-06265

Hearing Site: Seattle, Washington

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Nature of the Dispute: Customer v. Member and Associated Person

**REPRESENTATION OF PARTIES**

For Claimant:

G. Michael Zeno, Jr., Esq.  
Zeno, Drake and Hively, P.S.  
Kirkland, Washington

For Respondent Edward D. Jones & Co., L.P.:

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

For Respondent Lawrence S. Kerson:

Lawrence S. Kerson  
Pro Se  
Kenmore, Washington

**CASE INFORMATION**

Statement of Claim filed: October 15, 2002

Claimant's Uniform Submission Agreement signed: October 14, 2002

Statement of Answer filed by Respondent Edward D. Jones & Co., L.P.: January 24, 2003

Respondent Edward D. Jones & Co., L.P.'s Uniform Submission Agreement signed: November 7, 2002

**CASE SUMMARY**

Claimant alleged violation of Washington Securities Act, violation of Missouri Securities Act, violation of Washington's Consumer Protection Act, negligence, breach of fiduciary duty, misrepresentation, fraud, breach of contract, violation of NASD Rules of Fair Practice, vicarious liability, negligent failure to supervise, and violation of federal securities laws. Claimant's allegations involved "new economy" stocks such as Broadvision, California Amplifier, Cell Genesys, Cnet, Genuity, Internet Capital Group, Lucent Technologies, Nortel Networks,

Purchasepro.com, Verticalnet, Vignette Corp., Virata Corp, Wind River Systems, and Worldcom.

Respondent Edward D. Jones & Co., L.P. denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested unspecified compensatory damages, unspecified punitive damages or treble damages, pre-judgment interest, forum fees, and costs, including attorney's fees.

Respondent Edward D. Jones & Co., L.P. requested dismissal of Claimant's Statement of Claim in its entirety.

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

Respondent Lawrence S. Kerson did not file with NASD Dispute Resolution a properly executed submission agreement, but he is required to submit to arbitration pursuant to NASD's Code of Arbitration Procedure, and he is bound by the determination of the Panel on all issues submitted.

Upon review of the file and the representations made on behalf of Claimant, the undersigned Panel determined that Respondent Lawrence S. Kerson 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 NASD's Code of Arbitration Procedure (the "Code").

At the hearing, Claimant's counsel informed the Panel that Respondent Lawrence S. Kerson had filed for bankruptcy protection. Based upon Claimant's representation that Respondent Kerson has filed for bankruptcy protection, the Panel ruled that this matter is stayed with respect to Respondent Kerson.

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) Respondent Edward D. Jones & Co., L.P. is liable to and shall pay Claimant David Beard the sum of \$85,000.00 in compensatory damages.
- 2) Respondent Edward D. Jones & Co., L.P. is liable to and shall pay Claimant David Beard the

sum of \$130,000.00 in attorney's fees and costs, including expert witness fees. The Award of attorney's fees is made pursuant to the Washington Securities Act.

- 3) Respondent Edward D. Jones & Co., L.P. is liable to and shall pay Claimant interest in the amount of 10% per annum on \$85,000.00 from October 15, 2002 until the date that payment of this Award is made in full.
- 4) 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	= \$ 250.00
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#### **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 member firm Edward D. Jones & Co., L.P. is a party, and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 2,200.00</u>
<b>Total Member Fees</b>	<b>= \$ 4,450.00</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 Chair or the parties and the Panel. The following fees are assessed:

One (1) pre-hearing conference session with the Panel @ \$1,000.00/session	= \$ 1,000.00
Pre-hearing conference: June 3, 2003 1 session	
Eight (8) hearing sessions @ \$1,000.00/session	= \$ 8,000.00
Hearings: October 11, 2004 2 sessions	
October 12, 2004 2 sessions	
October 13, 2004 2 sessions	
October 14, 2004 2 sessions	
<b>Total Forum Fees</b>	<b>= \$ 9,000.00</b>

The Panel assessed \$9,000.00 of the forum fees to Edward D. Jones & Co., L.P.

**Fee Summary**

1. Claimant David Beard is charged with the following fees and costs:

Initial Filing Fee	= \$ 250.00
<u>Less payments</u>	<u>= \$(1,700.00)</u>
<b>Refund Due Claimant</b>	<b>= \$(1,450.00)</b>

2. Respondent Edward D. Jones & Co., L.P. is charged with the following fees and costs:

Member Fees	= \$ 4,450.00
<u>Forum Fees</u>	<u>= \$ 9,000.00</u>
Total Fees	= \$13,450.00
<u>Less payments</u>	<u>= \$(7,000.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 6,450.00</b>

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.

NASD Dispute Resolution  
Arbitration No. 02-06265  
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**ARBITRATION PANEL**

*Larry J. King, Esq.*

*Lawrence E. Little, Esq.*

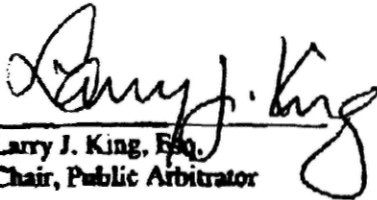
*William W. Anderson*

*Public Arbitrator, Presiding Chair*

*Public Arbitrator*

*Non-Public Arbitrator*

**Concurring Arbitrators' Signatures**



Larry J. King, Esq.  
Chair, Public Arbitrator

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

\_\_\_\_\_  
Lawrence E. Little, Esq.  
Public Arbitrator

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

\_\_\_\_\_  
William W. Anderson  
Non-Public Arbitrator

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

*10/22/04*  
\_\_\_\_\_  
Date of Service

**ARBITRATION PANEL**

<i>Larry J. King, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Lawrence E. Little, Esq.</i>	-	<i>Public Arbitrator</i>
<i>William W. Anderson</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

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Larry J. King, Esq.  
Chair, Public Arbitrator

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Signature Date



Lawrence E. Little, Esq.  
Public Arbitrator

10/22/04  
Signature Date

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William W. Anderson  
Non-Public Arbitrator

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Signature Date

10/22/04  
Date of Service

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<b>Larry J. King, Esq.</b>	-	<b>Public Arbitrator, Presiding Chair</b>
<b>Lawrence E. Little, Esq.</b>	-	<b>Public Arbitrator</b>
<b>William W. Anderson</b>	-	<b>Non-Public Arbitrator</b>

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Larry J. King, Esq.  
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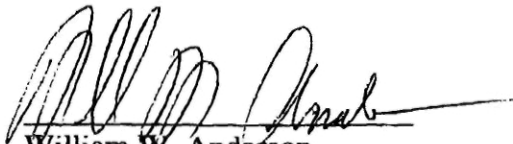
Signature Date

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Lawrence E. Little, Esq.  
Public Arbitrator

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Signature Date



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William W. Anderson  
Non-Public Arbitrator

10-22-04

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Signature Date

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Date of Service