

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Joanne Z. Thies, individually, Joanne Z. Thies Trustee for the Joanne Z. Thies Heritage Trust,
Claimants v. Paulson Investment Company Inc. and Peter Chaisson Jones, Respondents

Case Number: 03-00490

Hearing Site: Portland, Oregon

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

REPRESENTATION OF PARTIES

For Claimants:

Richard M. Layne, Esq.
Layne & Lewis LLP
Portland, Oregon

For Respondents:

Keith A. Ketterling, Esq.
Stoll Stoll Berne Lokting &
Shlachter
Portland, Oregon

CASE INFORMATION

Statement of Claim filed: January 17, 2003

Claimant Joanne Z. Thies' Uniform Submission Agreement signed: September 25, 2002

Claimant Joanne Z. Thies, Trustee for the Joanne Z. Thies Heritage Trust's, Uniform Submission Agreement signed: September 25, 2002

Joint Statement of Answer filed by Respondents Paulson Investment Company Inc. and Peter Chaisson Jones: April 7, 2003

Respondent Paulson Investment Company Inc.'s Uniform Submission Agreement signed:
January 31, 2003

Respondent Peter Chaisson Jones' Uniform Submission Agreement signed: January 31, 2003

CASE SUMMARY

In their Statement of Claim, Claimants alleged that Respondents made unsuitable and unauthorized trades in their accounts in violation of the following federal and state statutes and regulations: section 10b of the Securities and Exchange Act, section 10b-5 of the Securities and Exchange Commission Rule, the NASD Manual Conduct Rules 2129 and 2310-2, ORS 59.115 and 59.135, OAR 441-205-0010, 0020, 0100, 0130 and 0140. In addition, Claimants alleged negligence, failure to supervise, breach of fiduciary duty and common law fraud involving the purchase of various speculative and volatile common stock and securities.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

RELIEF REQUESTED

Claimants requested \$457,000.00 in compensatory damages, pre-judgment and post-judgment interest reasonable attorneys fees, costs and expenses.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety, reasonable costs and attorney's fees.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

FINDINGS AND CONCLUSIONS

The panel rejects claimant's contention that respondents engaged in unauthorized trading in her account. However, the panel concludes that the investment portfolio recommended to and purchased for claimant by respondents was unsuitable (both in terms of asset allocation and diversification) -- even with a stated investment objective of "Capital Appreciation" and a risk tolerance of "Moderate" -- in light of her age, health, earning capacity, net worth, liquid assets, alternate sources of income, and income needs. The panel concludes that claimant was also at fault in causing or contributing to her losses. After reducing the damages sustained to reflect claimant's degree of fault, the panel awards her \$40,000, each side to bear its own costs and attorney's fees.

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 Paulson Investment Company Inc. and Peter Chaisson Jones are jointly and severally liable to and shall pay Claimants the sum of \$40,000.00 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
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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 Paulson Investment Company Inc. 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>
Total Member Fees	= \$5,200.00

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 Arbitrator/Chair. The following fees are assessed:

(1) Pre-hearing conference session with the Chair @ \$ 450.00/session = \$ 450.00
Pre-hearing conference: October 28, 2003 1 session

(1) Pre-hearing conference session with the Panel @ \$1,125.00/session = \$1,125.00
Pre-hearing conference: June 9, 2003 1 session

(6) Hearing sessions @ \$1,125.00/session		= \$ 6,750.00
Hearings:	December 15, 2003	2 sessions
	December 16, 2003	2 sessions
	December 17, 2003	2 sessions

Total Forum Fees	= \$ 8,325.00
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The Panel assessed \$8,325.00 of the forum fees jointly and severally to Respondents Paulson Investment Company Inc. and Peter C. Jones.

Fee Summary

- | | |
|--|-----------------------|
| 1. Claimants are charged jointly and severally with the following fees and costs: | |
| Initial Filing Fee | = \$ 300.00 |
| <u>Less payments</u> | = \$(1,425.00) |
| Refund Due Claimants | = \$(1,125.00) |
| 2. Respondent Paulson Investment Company, Inc. is charged with the following fees and costs: | |
| Member Fees | = \$ 5,200.00 |
| <u>Less payments</u> | = \$(5,200.00) |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |
| 3. Respondents Paulson Investment Company Inc. and Peter C. Jones are charged jointly and severally with the following fees and costs: | |
| <u>Forum Fee</u> | = \$ 8,325.00 |
| Balance Due NASD Dispute Resolution | = \$ 8,325.00 |

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

Andrew K. Chenoweth	-	Public Arbitrator, Presiding Chair
Gregory L. Abbott, Esq.	-	Public Arbitrator
Daniel Dunnington	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Andrew K. Chenoweth
Chair, Public Arbitrator

Signature Date


Gregory L. Abbott, Esq.
Public Arbitrator

12/29/03
Signature Date

Daniel Dunnington
Non-Public Arbitrator

Signature Date

December 30, 2003
Date of Service

ARBITRATION PANEL

Andrew K. Chenoweth	-	Public Arbitrator, Presiding Chair
Gregory L. Abbott, Esq.	-	Public Arbitrator
Daniel Dunnington	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Andrew K. Chenoweth
Chair, Public Arbitrator

Signature Date

Gregory L. Abbott, Esq.
Public Arbitrator

Signature Date


Daniel Dunnington
Non-Public Arbitrator

12-30-03
Signature Date

December 30, 2003
Date of Service



Proof of Service

State of California, County of Los Angeles

I am employed in the county of Los Angeles. I declare that I am over the age of eighteen (18) and not a party to this action. My business address is:

**NASD Dispute Resolution
300 South Grand Avenue, Suite 900
Los Angeles, California 90071.**

On December 30, 2003, I served the following documents described as:

Award, Cover Letters, and Invoice Statement for Arbitration Case No. 03-00490 on the interested parties in this action by placing the true copies thereof enclosed in the sealed envelopes as follows:

Richard M. Layne, Esq., Layne & Lewis LLP, One S.W. Columbia St., Suite 1800, Portland, Oregon 97258-2085; Fax Number: 503.295.2057

Keith A. Ketterling, Esq., STOLL STOLL BERNE LOKTING & SHLACHTER PC, 209 Southwest Oak Street, Portland, Oregon 97204; Fax Number: 503.227.6840

- ☒ I deposited such envelop in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.
- ☐ By Personal Service, I caused such envelope to be delivered by hand to the individuals at the addressee(s) listed.
- ☐ By overnight courier, I caused the above-referenced documents to be delivered to an overnight courier service (Federal Express), for delivery to the above addressees.
- ☒ By facsimile machine, I caused the above-referenced documents to be transmitted to the above-named persons at the numbers above.
- ☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- ☐ (FEDERAL) I declare that I am employed in the office of a member of the bar on this court at whose direction the service was made.

Executed this December 30, 2003, at Los Angeles, California.


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ARBITRATION PANEL

Andrew K. Chenoweth	-	Public Arbitrator, Presiding Chair
Gregory L. Abbott, Esq.	-	Public Arbitrator
Daniel Dunnington	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Andrew K. Chenoweth
Chair, Public Arbitrator

12-30-03

Signature Date

Gregory L. Abbott, Esq.
Public Arbitrator

Signature Date

Daniel Dunnington
Non-Public Arbitrator

Signature Date

December 31, 2003
Date of Service