

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

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In the Matter of the Arbitration Between:

Name of the Claimant  
Trudy S. Shane

Case Number: 03-01034

Name of the Respondents  
Edward D. Jones & Co. and Gregory L. Seibel

Hearing Site: Chicago, Illinois

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Type of Controversy: Customer v. Member Firm and Associated Person

**REPRESENTATION OF PARTIES**

Claimants Trudy S. Shane was represented by Susan R. Schrag, Esq. of the firm Morris, Laing, Evans, Brook & Kennedy.

Respondents Edward D. Jones & Co. and Gregory L. Seibel, hereinafter collectively referred to as "Respondents" were represented by Lisa A. Nielsen, Esq. and Bradford Lear, Esq. of the firm Greensfelder, Hemker, & Gale, PC.

**CASE INFORMATION**

Statement of Claim filed on or about: February 11, 2003.

Claimant Shane signed the Uniform Submission Agreement: February 3, 2003.

Statement of Answer filed by Respondents on or about: May 01, 2003.

Respondent Edward D. Jones signed the Uniform Submission Agreement: February 20, 2003.

Respondent Seibel signed the Uniform Submission Agreement: March 14, 2003.

**CASE SUMMARY**

Claimants Shane asserted the following causes of action: Unauthorized Trading; Violation of the Kansas Consumer Protection Act; Violation of the Kansas Securities Act; Violation of the NASD Rules of Fair Practice; common law fraud; securities fraud; breach of fiduciary duty, and negligence.

The causes of action relate to Federated World Invt. Ser. Inc. Int'l Small Co Fd; Putman OTC & Emerging Growth; Putnam Growth Opportunities M; Putnam Growth Opportunities M; and Franklin Strategic Aggressive Growth.

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

- Failure to mitigate damages;
- Recovery is barred by Claimant's contributory or comparative negligent acts;
- Claimant ratified all transaction;
- Waiver;
- Estoppel;
- Claim barred by the statute of limitations;
- Assumption of risk;
- Transactions were authorized; and
- Respondent Seibel was adequately supervised.

**RELIEF REQUESTED**

Claimant Shane requested:

Compensatory Damages	\$83,366.45
Interest	15%
Attorneys' Fees	\$55,633.55
Other Costs	\$ 975.00
Other Monetary/Non-Monetary Relief if any:	any relief the panel deems just and equitable

Respondents requested:

Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	denial and dismissal of claims

**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 Gregory L. Seibel are jointly and severally liable for and shall pay to Claimant Trudy S. Shane the sum of \$83,366.45 as compensatory damages.
2. Respondents Edward D. Jones & Co. and Gregory L. Seibel are jointly and severally liable for and shall pay to Claimant Trudy S. Shane the sum of \$55,633.55 as attorney's fees.
3. Respondents Edward D. Jones & Co. and Gregory L. Seibel are jointly and severally liable for and shall pay to Claimant Trudy S. Shane the sum of \$975.00 for costs.
4. Except as specified herein, parties shall bear their own costs.
5. 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	= \$225.00
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#### **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 assessed the following fees:

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$1,700.00</u>
Total	= \$3,550.00

#### **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 sessions with Panel at \$750.00		= \$ 750.00
Pre-hearing conferences:	October 24, 2003	1 session
Three (3) Hearing sessions at \$750.00		= \$2,250.00
Hearing Dates:	April 1, 2004	2 sessions
	April 2, 2004	1 session
Total Forum Fees		= \$3,000.00

The Panel has assessed \$3,000.00 of the forum fees jointly and severally to Edward D. Jones & Co. and Gregory L. Seibel.

### **FEE SUMMARY**

1. Claimant Trudy S. Shane is solely liable for:

<u>Initial Filing Fee</u>	= \$ 225.00
Total Fees	= \$ 225.00
<u>Less payments</u>	<u>= \$ 975.00</u>
Refund Due from NASD Dispute Resolution	= \$ 750.00

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

<u>Member Fees</u>	= \$3,550.00
<u>Total Fees</u>	= \$3,550.00
<u>Less payments</u>	= \$1,850.00
Balance Due NASD Dispute Resolution	= \$1,700.00

3. Respondents Edward D. Jones & Co. and Gregory L. Seibel are jointly and severally liable for:

<u>Forum Fees</u>	= \$3,000.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$3,000.00

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

**ARBITRATION PANEL**

Richard H. Potter	-	Public Arbitrator, Presiding Chairperson
Roger Phillips, JD	-	Public Arbitrator
Roland Hecht	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/ Richard Potter

04-07-04

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Richard H. Potter  
Public Arbitrator, Presiding Chairperson

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

/s/ Roger M. Phillips

04-06-04

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Roger Phillips, JD  
Public Arbitrator

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

/s/ Roland Hecht

04-14-04

\_\_\_\_\_  
Roland Hecht  
Non-Public Arbitrator

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

04-15-04

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

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

**NASD Dispute Resolution**

Arbitration No. 03-01034

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

<u>Member Fees</u>	= \$3,550.00
<u>Total Fees</u>	= \$3,550.00
<u>Less payments</u>	= \$1,850.00
<u>Balance Due NASD Dispute Resolution</u>	= \$1,700.00

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**ARBITRATION PANEL**

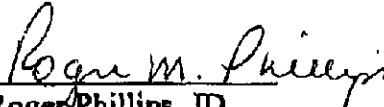
Richard H. Potter  
Roger Phillips, JD  
Roland Hecht

Public Arbitrator, Presiding Chairperson  
Public Arbitrator  
Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Richard H. Potter  
Public Arbitrator, Presiding Chairperson

Signature Date

  
Roger Phillips, JD  
Public Arbitrator

April 6, 2004  
Signature Date

Roland Hecht  
Non-Public Arbitrator

Signature Date

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## NASD Dispute Resolution

Arbitration No. 03-01034

Award Page 4 of 4

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ARBITRATION PANEL

Richard H. Potter  
Roger Phillips, JD  
Roland Hecht

Public Arbitrator, Presiding Chairperson  
Public Arbitrator  
Non-Public Arbitrator

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Richard H. Potter  
Public Arbitrator, Presiding Chairperson

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Signature Date

\_\_\_\_\_  
Roger Phillips, JD  
Public Arbitrator

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

Roland Hecht  
\_\_\_\_\_  
Roland Hecht  
Non-Public Arbitrator

April 14, 2004  
\_\_\_\_\_  
Signature Date

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