

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

James D. and Roberta S. Tipton

Case Number: 03-05587

Name of the Respondents

Edward D. Jones & Co., L.P. and
Michael Raymond Kamel

Hearing Site: Dallas, Texas

NATURE OF THE DISPUTE

Public Customer v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Claimants James D. and Roberta S. Tipton, hereinafter collectively referred to as "Claimants": Steven J. Berry, Esq. of the firm of Wright & Berry LLP, located in Fort Worth, Texas.

Respondents Edward D. Jones & Co., L.P. ("Jones") and Michael Raymond Kamel ("Kamel"), hereinafter collectively referred to as "Respondents": Jonathan A. Pace, Esq., of the firm of Pace & Rickey, L.L.P., located in Dallas, Texas.

CASE INFORMATION

Statement of Claim filed: July 29, 2004.

Claimants signed the Uniform Submission Agreement: July 28, 2003.

Statement of Answer filed by Respondents: September 19, 2003.

Respondent Jones signed the Uniform Submission Agreement: August 6, 2003.

Respondent Kamel signed the Uniform Submission Agreement: August 18, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: negligence; breach of contract; unsuitability; breach of fiduciary duty; failure to supervise (against Jones only); violation of the Texas Deceptive Trade Practices Act; breach of the standard of care set forth by the NASD, NYSE and SEC rules, federal and state statutes, compliance manuals and relevant case law. These causes of action related to the alleged unauthorized liquidation of Claimants' ExxonMobil stock and the

use of proceeds to purchase of municipal bonds.

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

1. Claimants have failed to mitigate damages and are barred from collecting damages, if any, at this time;
2. Claimants' contributory negligence bars them from collecting damages;
3. Claimants' are guilty of laches in failing to reverse the transactions complained of or complaining in a timely fashion;
4. Claimants are estopped to assert damages for allegedly unauthorized transactions because they received confirmations, monthly statements, and interest and determined to accept the trades; and,
5. Claimants have waived their cause of action by accepting the trades they now question.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	\$ 75,000.00 plus the commissions made on the ExxonMobil sale and the Bonds purchase
Treble Damages	Pursuant to the Texas Deceptive Trade Practices Act
Interest	Pre- or Post-Award as determined by the Panel
Attorneys' Fees and Other Costs	Pursuant to Tex. Civ. Prac. & Rem. Code and Tex. Bus. & Com. Code, §§ 17,15(d)

Respondents requested that the Panel dismiss the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made by/on behalf of the Claimant(s), the undersigned arbitrator(s) (the "Arbitrator"/"Panel") determined that Respondent(s) (*Names*) has (have) been 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(s) present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent(s) (*Names*) did not file with NASD Dispute Resolution, a properly executed submission to arbitration but is (are) required to submit to arbitration pursuant to the Code and {, having answered the claim, appeared and testified at the hearing,} is (are) bound by the

determination of the Arbitrator (Panel) on all issues submitted.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Edward D. Jones & Co., L.P. and Michael Raymond Kamel are jointly and severally liable for and shall pay to the Claimants, James D. and Roberta S. Tipton, the sum of \$92,388.00 as compensatory damages, plus interest at the rate of 6% per annum accruing from November 8, 2002 until the sum is paid in full;
2. Respondents Edward D. Jones & Co., L.P. and Michael Raymond Kamel are jointly and severally liable for and shall pay to the Claimants, James D. and Roberta S. Tipton, the sum of \$29,740.00 as attorneys' fees. In deciding to award attorneys' fees, the Panel considered the arguments of counsel and the pleading filed on the parties behalf and determined that both statutory and contractual authority existed for an award of attorneys' fees to the Claimants;
3. Respondents Edward D. Jones & Co., L.P. and Michael Raymond Kamel are jointly and severally liable for and shall pay to the Claimants, James D. and Roberta S. Tipton, the sum of \$2,500.00 as expert witness fees plus the sum of \$300.00 as reimbursement of the non-refundable claim filing fee;
4. All remaining costs of arbitration, including any additional attorneys' fees, shall be borne by the party incurring the cost, unless specifically enumerated herein; and,
5. Any and all relief not specifically addressed herein, including punitive or treble 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	= \$ 300.00
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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., L.P. is a party and the following member fees are assessed:

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00

Hearing process fee = \$ 2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed: None.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel @ \$1,125.00	= \$ 1,125.00
Pre-hearing conference: February 17, 2004 1 session	
Four (4) Hearing sessions @ \$1,125.00	= \$ 4,500.00
Hearing Dates: July 26, 2004 2 sessions	
July 27, 2004 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$ 5,625.00

The Panel has assessed \$5,625.00 of the forum fees, jointly and severally, to Respondents Edward D. Jones & Co., L.P. and Michael Raymond Kamel.

SEE SUMMARY

Claimants James D. and Roberta S. Tipton are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Refunded by NASD Dispute Resolution	= \$ 1,125.00

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

Member Fees	= \$ 5,200.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents Edward D. Jones & Co., L.P. and Michael Raymond Kamel are jointly and severally liable for:

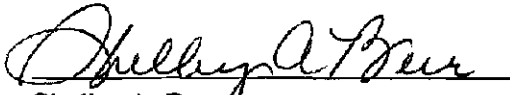
Forum Fees	= \$ 5,625.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 5,625.00

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

ARBITRATION PANEL

Shelby A. Beer - Public Arbitrator, Presiding Chairperson
Karen Colleen Washington, J.D. - Public Arbitrator
William Richard Smith - Non-Public Arbitrator

Concurring Arbitrators' Signatures


Shelby A. Beer
Public Arbitrator, Presiding Chairperson

9-7-04
Signature Date

Karen Colleen Washington, J.D.
Public Arbitrator

Signature Date

William Richard Smith
Non-Public Arbitrator

Signature Date

9/9/04 
Date of Service (For NASD Dispute Resolution office use only)


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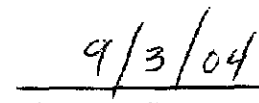
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Shelby A. Beer
Public Arbitrator, Presiding Chairperson

Signature Date



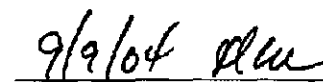
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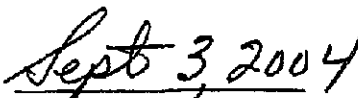
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