

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Karen F. DeShazo

Case Number: 03-05851

Name of the Respondents
Edward D. Jones & Co.,
and Mark Schwartz

Hearing Site: Kansas City, Missouri

NATURE OF THE DISPUTE

Customer v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

John J. Miller, Esq., with Law Offices located in Kansas City, Missouri, represented Claimant Karen F. DeShazo, hereinafter referred to as "DeShazo."

Jennnifer Alexander Briner, Esq., in-house counsel for Edward D. Jones & Co., located in St. Louis, Missouri, represented Respondents Edward D. Jones & Co. and Mark Schwartz, hereinafter collectively referred to as "Respondents."

CASE INFORMATION

Claimant filed the Statement of Claim on or about August 12, 2003. Claimant DeShazo signed the Uniform Submission Agreement on July 29, 2003.

Respondents filed a Joint Statement of Answer on December 17, 2003. Respondent Edward D. Jones signed the Uniform Submission Agreement on August 21, 2003, and Respondent Schwartz signed the Uniform Submission Agreement on August 25, 2003.

CASE SUMMARY

Claimant DeShazo asserted the following causes of action: violation of the Kansas Securities Act; misrepresentations and omissions; negligence; and breach of fiduciary duty.

The causes of action relate to investments in the Polaris variable annuity and Hartford and Putnam stock mutual funds.

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;

contributory or comparative negligence; ratification; waiver; estoppel; assumption of risk; authorization; statute of limitations; alleged losses are not recoverable by law; and proper supervision.

RELIEF REQUESTED

Claimant DeShazo requested compensatory damages in the amount of \$173,500.00, punitive damages, interest, attorney's fees, costs, and any such relief the Panel deems just and equitable.

Respondents requested denial and dismissal of claims.

OTHER ISSUES CONSIDERED AND DECIDED

At the close of Claimant's case, Respondents moved to dismiss on statute of limitations grounds. The Panel did not accept the Motion but allowed Respondent to present the theories at closing argument.

Parties agreed that this award may be served in counterpart with NASD retaining the original signatures.

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 Mark Schwartz are jointly and severally liable for and shall pay to Claimant Karen F. DeShazo, the sum of \$193,550.00 as compensatory damages, which amount includes interest of 8% per annum that began to accrue March 13, 2000 and ceased to accrue on February 28, 2003.
2. Respondents Edward D. Jones & Co. and Mark Schwartz are jointly and severally liable for and shall pay to Claimant Karen F. DeShazo, the sum of \$14,232.00 as attorney's fees, pursuant to the Missouri Securities Act.
3. Respondents Edward D. Jones & Co. and Mark Schwartz are jointly and severally liable for and shall pay to Claimant Karen F. DeShazo, the sum of \$300.00 as reimbursement of the NASD non-refundable filing fees, in accordance with Rule 10332 of the NASD Code of Arbitration Procedure.
4. Except for the forum fees associated with this matter, which are specified herein, the 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	= \$ 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., as a party, is assessed the following fees:

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 2,750.00</u>
Total	= \$ 5,200.00

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 at \$1,125.00	= \$ 1,125.00
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Pre-hearing conference:	April 5, 2004	1 session
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Four (4) Hearing sessions at \$1,125.00	= \$ 4,500.00
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Hearing Dates:	November 16, 2004	2 sessions
	November 17, 2004	2 sessions

Total Forum Fees	= \$ 5,625.00
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The Panel has assessed \$5,625.00 of the forum fees jointly and severally to Edward D. Jones & Co. and Mark Schwartz.

FEE SUMMARY

Claimant Karen F. DeShazo is solely liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
<u>Refund Due From NASD Dispute Resolution</u>	= \$ 1,125.00

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

<u>Member Fees</u>	= \$ 5,200.00
<u>Total Fees</u>	= \$ 5,200.00
<u>Less payments</u>	= \$ 4,150.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 1,050.00

Respondents Edward D. Jones & Co. and Mark Schwartz are jointly and severally liable for:

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

Kurt A. Harper, J.D.	-	Public Arbitrator, Presiding Chairperson
Patricia W. Bottoms	-	Public Arbitrator
John E. Sundeen	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ Kurt A. Harper

Kurt A. Harper, J.D.
Public Arbitrator, Presiding Chairperson

Signature Date

Patricia W. Bottoms
Public Arbitrator

Signature Date

/s/ John E. Sundeen

12/17/04

John E. Sundeen
Non-Public Arbitrator

Signature Date

1/6/5 Date of Service (For NASD Dispute Resolution office use only)

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Patricia W. Bottoms	-	Public Arbitrator
John E. Sundeen	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Kurt A. Harper, J.D.
Public Arbitrator, Presiding Chairperson

12/21/04
Signature Date

Patricia W. Bottoms
Public Arbitrator

Signature Date

John E. Sundeen
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution
Arbitration No. 03-05851
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Respondents Edward D. Jones & Co. and Mark Schwartz are jointly and severally liable for:

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

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ARBITRATION PANEL

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Patricia W. Bottoms	-	Public Arbitrator
John E. Sundeen	-	Non-Public Arbitrator

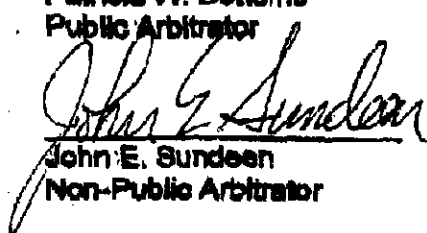
Consenting Arbitrators' Signatures

Kurt A. Harper, J.D.
Public Arbitrator, Presiding Chairperson

Signature Date

Patricia W. Bottoms
Public Arbitrator

Signature Date



John E. Sundeen
Non-Public Arbitrator

12/17/04

Signature Date

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