

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

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In the Matter of the Arbitration Between:

The Wykoff Family Trust dtd 10/30/89, Claimant v. Edward D. Jones & Co., Respondent

Case Number: 03-06250

Hearing Site: San Francisco, California

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Nature of the Dispute: Customer v. Member

**REPRESENTATION OF PARTIES**

For Claimant:

William P. Torngren, Esq.  
Law Offices of William P. Torngren  
Sacramento, California

For Respondent:

Sandra B. Gallini, Esq.  
Greensfelder, Hemker & Gale, P.C.  
St. Louis, Missouri

**CASE INFORMATION**

Statement of Claim filed: August 27, 2003

Claimant's Uniform Submission Agreement signed: August 12, 2003

Statement of Answer and Motion to Dismiss filed by Respondent: December 12, 2003

Respondent's Uniform Submission Agreement signed: October 2, 2003

**CASE SUMMARY**

Claimant alleged breach of fiduciary duty, negligence, unsuitability, and violation of California state securities laws involving the purchase of a variable annuity issued by Hartford Life.

Respondent denied the allegations of wrongdoing set forth in Claimant's Statement of Claim.

**RELIEF REQUESTED**

Claimant requested \$25,050.00 in compensatory damages, unspecified punitive damages, disgorgement, interest, and costs, including attorney's fees.

Respondent requested dismissal of Claimant's Statement of Claim in its entirety.

**OTHER ISSUES CONSIDERED AND DECIDED**

On October 27, 2003, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

All claims except breach of fiduciary duty and violation of California state securities laws were abandoned by Claimant during the hearing.

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) Claimant's claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested, including punitive damages, 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	= \$ 150.00
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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. is a party and the following fees are assessed:

Member Surcharge	= \$ 600.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 1,000.00</u>
<b>Total Member Fees</b>	<b>= \$ 2,350.00</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 Panel. The following fees are assessed:

1 Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: August 11, 2004 1 session	
1 Pre-hearing conference session with the panel @ \$ 600.00/session	= \$ 600.00
Pre-hearing conference: February 10, 2004 1 session	
5 Hearing sessions @ \$ 600.00/session	= \$ 3,000.00
Hearings: September 8, 2004 2 sessions	
September 9, 2004 2 sessions	
September 10, 2004 1 sessions	
<b>Total Forum Fees</b>	<b>= \$ 4,050.00</b>

1. The Panel assessed \$ 2,025.00 of the forum fees to Claimant.
2. The Panel assessed \$ 2,025.00 of the forum fees to Respondent.

**FEE SUMMARY**

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

Initial Filing Fee	= \$ 150.00
Forum Fees	= \$ 2,025.00
Total Fees	= \$ 2,175.00
Less payments	= \$( 775.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,400.00</b>

2. Respondent is charged with the following fees and costs:

Member Fees	= \$ 2,350.00
Forum Fees	= \$ 2,025.00
Total Fees	= \$ 4,375.00
Less payments	= \$(2,350.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 2,025.00</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.

**ARBITRATION PANEL**

David J. Anderson	-	Public Arbitrator, Presiding Chair
Sterling N. Frost	-	Public Arbitrator
Terri Coster Boesch	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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David J. Anderson  
Chair, Public Arbitrator

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Signature Date

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Sterling N. Frost  
Public Arbitrator

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Signature Date

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Terri Coster Boesch  
Non-Public Arbitrator

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Signature Date

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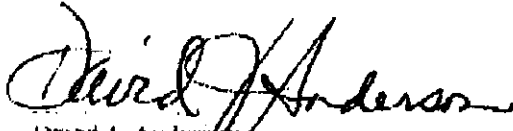
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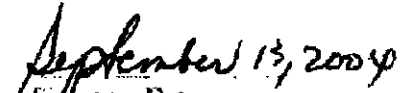
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Non-Public Arbitrator

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Chair, Public Arbitrator

  
Signature Date

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Public Arbitrator

Signature Date

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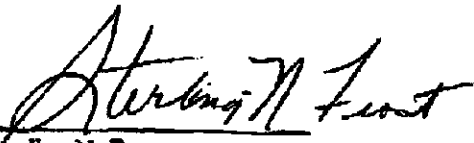
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9/13/04  
Signature Date

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\_\_\_\_\_  
9/14/04  
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