

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Thomas P. Matula, individually and as trustee of the Matula Family Trust U/A DTD 11/11/1992,
Claimants v. Edward D. Jones & Co., UBOC Investment Services Incorporated, Ruth Ann
Nickell, a/k/a Ruth Ann Bates, a/k/a Ruth Ann Clark, and Daniel Thomas Tinney, Respondents

Case Number: 04-02707

Hearing Site: Los Angeles, California

Nature of the Dispute: Customers v. Members and Associated Persons

REPRESENTATION OF PARTIES

For Claimants:

Jonathan W. Evans, Esq.
Jonathan W. Evan & Associates
Studio City, California

For Respondent Edward D. Jones & Co.
and Ruth Ann Nickell, a/k/a Ruth Ann Bates,
a/k/a Ruth Ann Clark (hereinafter "Ruth Ann
Nickell"):

David M. Harris, Esq.
David J. Simmons, Esq.
Greensfelder, Hemker & Gale, P.C.
St. Louis, Missouri

For Respondents UBOC Investment Services
Incorporated, Ruth Ann Nickell, and
Daniel Thomas Tinney:

Stacey M Garrett, Esq.
Keesal, Young & Logan
Long Beach, California

CASE INFORMATION

Statement of Claim filed: April 9, 2004

Claimants' Joint Uniform Submission Agreement: Signed but not dated

Joint Statement of Answer filed by Respondents UBOC Investment Services Incorporated,
Ruth Ann Nickell, and Daniel Thomas Tinney: June 7, 2004

Motion to Dismiss filed by Respondents Edward D. Jones & Co. and Ruth Ann Nickell:
June 14, 2004

Respondent Edward D. Jones & Co.'s Uniform Submission Agreement signed: April 21, 2004

Respondent UBOC Investment Services Incorporated's Uniform Submission Agreement signed:
December 8, 2004

Respondent Ruth Ann Nickell's Uniform Submission Agreement signed: June 7, 2004

Respondent Daniel Thomas Tinney's Uniform Submission Agreement signed: June 23, 2004

CASE SUMMARY

Claimants alleged breach of contract, breach of implied covenant of good faith and fair dealing, breach of fiduciary duty, unsuitability, switching, fraud, misrepresentation and omission of material facts, negligence, violation of federal and state securities laws, violation of NASD rules, loss of investment opportunity, elder abuse, unfair or deceptive practices against senior citizens, and failure to supervise. Claimants' causes of action relate to the switch of an Allianz Valuemark variable annuity for a Fidelity Advisor Generation variable annuity the latter of which was invested in "growth' mutual funds which, by their nature, created an unsuitably high degree of risk and volatility." Claimants' allegations also involved the alleged over-concentration of Claimants' accounts in equities such as Lucent Technology, AT&T.

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

RELIEF REQUESTED

Claimants requested \$1,723,172.00 in compensatory damages, disgorgement of commissions on the annuities transactions in the amount of \$85,000.00, lost opportunity costs, unspecified punitive damages, treble damages pursuant to California Civil Code Section 3345, interest at the rate of 10% per annum, and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety, expungement of all reference to the above-captioned arbitration from Respondents Ruth Ann Nickell and Daniel Thomas Tinney's registration records maintained by the NASD Central Registration Depository, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On June 18, 2004, Claimants and Claimants' 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 waivers of the Claimants 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.

On June 14, 2004, Respondents Edward D. Jones & Co. and Ruth Ann Nickell filed a Motion to Dismiss that portion of the Statement of Claim covering Claimants' accounts at Edward D. Jones & Co. On September 9, 2004, Claimants filed an opposition to the motion.

On September 7, 2004, Claimants filed a Motion for Default of Respondent Edward D. Jones & Co. On September 24, 2004, Respondent Edward D. Jones & Co. filed an opposition to the motion. Claimants filed a Reply on October 7, 2004.

On January 13, 2005, a telephonic pre-hearing conference was held to hear the parties' respective arguments with respect to Respondents Edward D. Jones & Co. and Ruth Ann Nickell's Motion to Dismiss and Claimants' Motion for Default. Claimants were represented by Jonathan W. Evans, Esq. Respondent Edward D. Jones & Co. and Ruth Ann Nickell were represented by David Harris, Esq. Respondents UBOC Investments Incorporated, Ruth Ann Nickell, and Daniel T. Tinney were represented by Dena Murphy, Esq. and Sean Muntz, Esq. The pre-hearing conference was attended by the full Panel. After due deliberation, the Panel denied Claimants' Motion for Default, granted Edward D. Jones & Co.'s Motion to Dismiss, and granted Ruth Ann Nickell's Motion to Dismiss with respect to those transactions in the Statement of Claim that related to her employment by Edward D. Jones & Co.

On December 28, 2005, Claimants' voluntarily dismissed Respondents Ruth Ann Nickell and Daniel Thomas Tinney with prejudice.

On or about December 28, 2005, the parties entered into a confidential settlement agreement and stipulated to a request that the Panel recommend the expungement of all reference to the above-captioned arbitration from Respondents Ruth Ann Nickell and Daniel Thomas Tinney's registration records maintained by the NASD Central Registration Depository.

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

AWARD

After considering the pleadings, testimony, and the parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimants' claims are dismissed with prejudice.
- 2) The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Ruth Ann Nickell's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Ruth Ann Nickell must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Daniel Thomas Tinney's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Daniel Thomas Tinney must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 4) The parties shall bear their respective costs, including attorney's fees.
- 5) All other relief requested and not expressly granted, including Claimants' requests for punitive and treble 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 = \$ 600.00

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 firms Edward D. Jones & Co. and UBOC Investment Services, Incorporated are parties and the following fees are assessed to each:

Member Surcharge	= \$3,350.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$5,500.00</u>
Total Member Fees	= \$9,600.00

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 Chair or the parties and the Panel. The following fees are assessed:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$2,400.00
Pre-hearing conferences: December 8, 2004	1 session
January 13, 2005	1 session
Total Forum Fees	= \$2,400.00

1. The Panel assessed \$1,200.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$600.00 of the forum fees to Edward D. Jones & Co.
3. The Panel assessed \$600.00 of the forum fees to UBOC Investment Services, Incorporated.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 1,200.00
Total Fees	= \$ 1,800.00
Less payments	= \$(1,800.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Respondent Edward D. Jones & Co. is charged with the following fees and costs:

Member Fees	= \$ 9,600.00
Forum Fees	= \$ 600.00
Total Fees	= \$10,200.00
Less payments	= \$(9,600.00)
Balance Due NASD Dispute Resolution	= \$ 600.00

3. Respondent UBOC Investment Services, Incorporated is charged with the following fees and costs:

Member Fees	= \$ 9,600.00
Forum Fees	= \$ 600.00
Total Fees	= \$10,200.00
Less payments	= \$(9,600.00)
Balance Due NASD Dispute Resolution	= \$ 600.00

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

Joyce L. Hurley

Karen L. Gold

Sharon Clanton, CFP

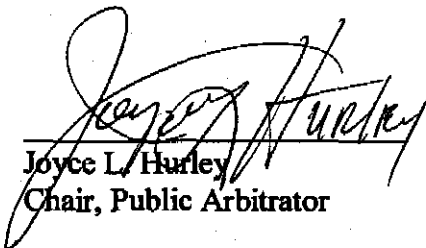
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Public Arbitrator, Presiding Chair

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures


Joyce L. Hurley
Chair, Public Arbitrator

1/27/2006
Signature Date

Karen L. Gold
Public Arbitrator

Signature Date

Sharon Clanton, CFP
Non-Public Arbitrator

Signature Date

January 30, 2006
Date of Service

ARBITRATION PANEL

Joyce L. Hurley

Karen L. Gold

Sharon Clanton, CFP

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Public Arbitrator, Presiding Chair

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Joyce L. Hurley
Chair, Public Arbitrator

Signature Date

Karen L. Gold

Karen L. Gold
Public Arbitrator

1-20-05
Signature Date

Sharon Clanton, CFP
Non-Public Arbitrator

Signature Date

January 30, 2006
Date of Service

ARBITRATION PANEL

Joyce L. Hurley

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Public Arbitrator, Presiding Chair

Karen L. Gold

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Public Arbitrator

Sharon Clanton, CFP

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Non-Public Arbitrator

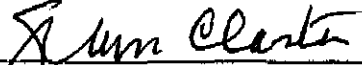
Concurring Arbitrators' Signatures

Joyce L. Hurley
Chair, Public Arbitrator

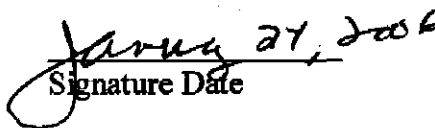
Signature Date

Karen L. Gold
Public Arbitrator

Signature Date



Sharon Clanton, CFP
Non-Public Arbitrator



Signature Date



Date of Service