

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Melanie Rickie Ross, Trustee of  
the Ross Family Trust DTD 5-22-97

and

Case Number: 04-02868  
Hearing Site: Houston, Texas

Names of Respondents

Edward D. Jones & Company and  
Steven D. Self

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**NATURE OF DISPUTE**

Customer v. Member Firm and Associated Person

**REPRESENTATION OF PARTIES**

Melanie Rickie Ross, Trustee of the Ross Family Trust DTD 5-22-97 ("**Claimant**") was represented by David Leibrader, Esq., The Law Offices of David Leibrader, Inc., Las Vegas, Nevada.

Edward D. Jones & Company ("**Edward D. Jones**") and Steven D. Self ("**Self**"), hereinafter collectively referred to as "Respondents," were represented by Wendy S. Menghini, Esq., Greensfelder, Hemker & Gale, PC. St. Louis, Missouri.

**CASE INFORMATION**

The Statement of Claim was filed on or about April 19, 2004. The Submission Agreement of Claimant, Melanie Rickie Ross, Trustee of the Ross Family Trust DTD 5-22-97, was signed on or about April 19, 2004.

The Statement of Answer was filed jointly by Respondents, Edward D. Jones & Company and Steven D. Self, on or about October 4, 2004. The Submission Agreement of Respondent, Edward D. Jones & Company, was signed on or about August 23, 2004. The Submission Agreement of Respondent, Steven D. Self, was signed on or about August 26, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of fiduciary duty, negligence and suitability. The causes of action related to the recommendation by Respondents to set up

the margin component of the account as collateral to support Claimant's withdrawals. Claimant alleged that Respondents knew that she couldn't work due to her age and relied on Respondents to protect and preserve the account by offering sound advice. Claimant alleged that Respondents breached their duty to Claimant by misleading her to Respondents' advantage, specifically their compensation in the form of commissions, profits, and margin interest.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: All of Claimant's claims are barred by the statute of limitations, Claimant authorized and instructed Respondent Self to enter into all of the transactions at issue; the claims asserted in the Statement of Claim are barred by the doctrines of waiver and laches; Claimant ratified all transactions; Claimant failed to mitigate the alleged damages; and to the extent that the Trust suffered any losses, they are the product of the negligent conduct of Claimant and this recovery is barred by Claimant's contributory and/or comparative negligent acts.

#### **RELIEF REQUESTED**

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$146,216.00
Punitive/Exemplary Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

#### **OTHER ISSUES CONSIDERED & DECIDED**

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

#### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimant's claims, each and all, are hereby denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee	= \$ 300.00
(waived by the Director of Arbitration)	

#### **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. In this matter, the member firm is Edward D. Jones & Company.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

#### **Forum Fees and Assessments**

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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 x \$1,125.00	= \$ 1,125.00
Pre-hearing conference: December 10, 2004	1 session
Four (4) Hearing sessions x \$1,125.00	= \$ 4,500.00
Hearing Date(s): August 24, 2005	2 sessions
August 25, 2005	2 sessions
<b>Total Forum Fees</b>	<b>= \$ 5,625.00</b>

The Arbitration Panel has assessed \$5,625.00 of the forum fees to Edward D. Jones & Company.

**Fee Summary**

Respondent, Edward D. Jones & Company, is liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 5,625.00
<u>Total Fees</u>	<u>= \$10,825.00</u>
<u>Less payments</u>	<u>= \$ 5,200.00</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**

James Mervin Benson, Jr., Esq. - Public Arbitrator, Presiding Chair  
Leonard Alpert - Public Arbitrator  
Joshua D. Wallach - Non-Public Arbitrator

Concurring Arbitrators:

/s/ James Mervin Benson, Jr., Esq.  
James Mervin Benson, Jr., Esq.  
Public Arbitrator, Presiding Chair

September 2, 2005  
Signature Date

/s/ Leonard Alpert  
Leonard Alpert  
Public Arbitrator

September 1, 2005  
Signature Date

/s/ Joshua D. Wallach  
Joshua D. Wallach  
Non-Public Arbitrator

September 1, 2005  
Signature Date

September 1, 2005  
Date of Service (For NASD office use only)

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Less payments = \$ 5,200.00

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Leonard Alpert - Public Arbitrator

Joshua D. Wallach - Non-Public Arbitrator

Concurring Arbitrators:

  
James Mervin Benson, Jr., Esq.  
Public Arbitrator, Presiding Chair

7-2-05  
Signature Date

Leonard Alpert  
Public Arbitrator

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

Joshua D. Wallach  
Non-Public Arbitrator

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Concurring Arbitrators:

James Mervin Benson, Jr., Esq.  
Public Arbitrator, Presiding Chair

*Leonard Alpert*  
Leonard Alpert  
Public Arbitrator

Signature Date

*9/1/2005*  
Signature Date

Joshua D. Wallach  
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chair

Signature Date

Leonard Alpert  
Public Arbitrator

Signature Date

Joshua D. Wallach  
Non-Public Arbitrator

9-1-05  
Signature Date

Date of Service (For NASD office use only)