

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Patricia A. McIntosh (Claimant) v. Edward D. Jones & Company, LP (Respondent)

Case Number: 04-03528

Hearing Site: Cincinnati, Ohio

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

Claimant Patricia A. McIntosh ("McIntosh") hereinafter referred to as "Claimant": William K. Flynn, Esq., Strauss & Troy, Cincinnati, OH.

Respondent Edward D. Jones & Company, LP ("Edward Jones") hereinafter referred to as "Respondent": Dennis K. Egan, Esq., Butzel Long, Bloomfield Hills, MI.

CASE INFORMATION

Statement of Claim filed on or about: May 10, 2004.

Claimant signed the Uniform Submission Agreement: January 12, 2004.

Statement of Answer filed by Respondent on or about: July 6, 2004.

Respondent signed the Uniform Submission Agreement: May 24, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; misrepresentation; churning; suitability; negligence; breach of contract; and violation of state and federal securities laws. The causes of action relate to an annuity.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$100,000.00; pre-award and post-award interest; costs; expert witness and attorneys' fees; and punitive damages.

Respondent requested that the Panel dismiss Claimant's claims with prejudice and costs.

OTHER ISSUES CONSIDERED AND 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.

AWARD

After considering the pleadings, and 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. Respondent is liable for and shall pay Claimant compensatory damages in the amount of \$44,497.00.
2. 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 = \$225.00

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 Jones & Company, LP is a party.

| | |
|-------------------------|--------------|
| Member surcharge | = \$1,100.00 |
| Pre-hearing process fee | = \$ 750.00 |
| Hearing process fee | = \$1,700.00 |

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 a single arbitrator @ \$450.00 | = \$ 450.00 |
| Pre-hearing conference: February 25, 2005 1 session | |
| One (1) Pre-hearing session with Panel @ \$750.00 | = \$ 750.00 |
| Pre-hearing conference: September 22, 2004 1 session | |
| Four (4) Hearing sessions @ \$750.00 | = \$3,000.00 |
| Hearing Dates: March 15, 2005 2 sessions | |

| | | | |
|------------------|----------------|------------|--------------|
| | March 16, 2005 | 2 sessions | |
| Total Forum Fees | | | = \$4,200.00 |

1. The Panel has assessed \$4,200.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

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|----------------------------|-------------|
| <u>Initial Filing Fee</u> | = \$ 225.00 |
| <u>Total Fees</u> | = \$ 225.00 |
| <u>Less payments</u> | = \$ 975.00 |
| <u>Refund Due Claimant</u> | = \$ 750.00 |

2. Respondent is solely liable for:

| | |
|--|--------------|
| <u>Member Fees</u> | = \$3,550.00 |
| <u>Forum Fees</u> | = \$4,200.00 |
| <u>Total Fees</u> | = \$7,750.00 |
| <u>Less payments</u> | = \$3,550.00 |
| <u>Balance Due NASD Dispute Resolution</u> | = \$4,200.00 |

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

ARBITRATION PANEL

| | | |
|-------------------------|---|--|
| Benjamin B. Segel, Esq. | - | Public Arbitrator, Presiding Chairperson |
| Neal D. Baker, J.D. | - | Public Arbitrator |
| Dimitri Angelo Dodys | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Benjamin B. Segel, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Neal D. Baker, J.D.
Public Arbitrator

Signature Date

Dimitri Angelo Dodys
Non-Public Arbitrator

Signature Date

3/24/05
Date of Service (For NASD Dispute Resolution use only)

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ARBITRATION PANEL

| | | |
|-------------------------|---|--|
| Benjamin B. Segel, Esq. | - | Public Arbitrator, Presiding Chairperson |
| Neal D. Baker, J.D. | - | Public Arbitrator |
| Dimitri Angelo Dodys | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Benjamin B. Segel, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Neal D. Baker, J.D.
Public Arbitrator

Signature Date


Dimitri Angelo Dodys
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution use only)