

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Paul & Linda Forney and Paul Forney IRA (Claimants) v. Edward D. Jones & Co. and James T. Hershman (Respondents)

Case Number: 04-05525

Hearing Site: Cleveland, Ohio

Nature of the Dispute: Customer vs. Member and Associated Person

REPRESENTATION OF PARTIES

Claimants Paul Forney and Linda Forney ("Forney") and Paul Forney IRA ("Forney IRA") hereinafter collectively referred to as "Claimants": Lawrence J. Scanlon, Esq., Scanlon & Co., L.L.C., Akron, OH.

Respondents Edward D. Jones & Co. ("Edward Jones") and James T. Hershman ("Hershman"), hereinafter collectively referred to as "Respondents": Dennis K. Egan, Esq., Butzel Long, Bloomfield Hills, MI.

CASE INFORMATION

Statement of Claim filed on or about: August 3, 2004.

Claimants signed the Uniform Submission Agreement: August 2, 2004.

Statement of Answer filed by Respondents on or about: September 23, 2004.

Respondent Hershman signed the Uniform Submission Agreement: September 21, 2004.

Respondent Edward Jones signed the Uniform Submission Agreement: August 9, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; breach of fiduciary duty; and failure to supervise. The causes of action relate to common stock in Cisco Systems, Dell Computer, Lucent Technologies, Microsoft Corp., Qualcomm Inc. and Sprint PCS; various mutual funds, including Hartford Capital Appreciation, Hartford Midcap Fund, Putnam Investors Fund, Putnam Growth Opportunities Fund, Federated American Leaders, Goldman Sachs Trust Capital Growth Portfolio, Federated European Growth; and a Georgia Pacific Corporation Debenture.

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

RELIEF REQUESTED

Claimants requested the return of all monies invested and lost (\$129,545.00 in the IRA account plus \$2,323.00 in the joint account) plus interest and reasonable expectation of return from the date of investment; the value and benefit the Forneys would have achieved had the funds been properly invested in suitable investments, estimated to be \$25,457.00 in the IRA account and \$3,738.00 in the joint account; punitive damages of \$500,000.00; and reasonable attorneys' fees, costs, and other expenses incurred in pursuing this remedy.

Respondents requested that the Panel dismiss Claimants' claims, order this matter expunged from Hershman's CRD record and charge the forum fees in this matter to the Claimants.

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, 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 Edward Jones is liable for and shall pay to Claimants compensatory damages in the amount of \$55,000.00.
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	= \$ 375.00
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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. is a party.

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 4,000.00</u>
Total Member fees	= \$ 7,000.00

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 @ \$1,200.00	= \$1,200.00
Pre-hearing conference: December 16, 2004 1 session	
Five (5) Hearing sessions @ \$1,200.00	= \$6,000.00
Hearing Dates: June 29, 2005 2 sessions	
June 30, 2005 2 sessions	
July 1, 2005 1 sessions	
Total Forum Fees	= \$7,200.00

1. The Panel has assessed \$3,600.00 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$3,600.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants are jointly and severally liable for:	
Initial Filing Fee	= \$ 375.00
Forum Fees	= \$3,600.00
Total Fees	= \$3,975.00
Less payments	= \$1,575.00
Balance Due NASD Dispute Resolution	= \$2,400.00
2. Respondent Edward Jones is solely liable for:	
Member Fees	= \$7,000.00
Total Fees	= \$7,000.00
Less payments	= \$7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00
4. Respondents are jointly and severally liable for:	
Forum Fees	= \$3,600.00
Total Fees	= \$3,600.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$3,600.00

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

ARBITRATION PANEL

Elmer G. Cowen, Esq.	-	Public Arbitrator, Presiding Chairperson
Sanford Heiser	-	Public Arbitrator
Sandra J. Bakalus	-	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.



Elmer G. Cowen, Esq.
Public Arbitrator, Presiding Chairperson

JUL 11 2005

Signature Date

Sanford Heiser
Public Arbitrator

Signature Date

Sandra J. Bakalus
Non-Public Arbitrator

Signature Date

JULY 11, 2005

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

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Sanford Heiser	-	Public Arbitrator
Sandra J. Bakalus	-	Non-Public Arbitrator

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Elmer G. Cowen, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Sanford Heiser
Sanford Heiser
Public Arbitrator

July 11, 2005
Signature Date

Sandra J. Bakalus
Non-Public Arbitrator

Signature Date

JULY 11, 2005
Date of Service (For NASD Dispute Resolution use only)

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Elmer G. Cowen, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Sanford Heiser
Public Arbitrator

Signature Date



Sandra J. Bakalus
Non-Public Arbitrator

Signature Date

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