
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Ronald A. and Carol R. Lucian

Case Number: 04-07305

Names of the Respondents

Edward D. Jones & Co., L.P.

John M. Boyett, Jr.

Hearing Site: Orlando, Florida

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

REPRESENTATION OF PARTIES

For Ronald A. and Carol R. Lucian, hereinafter collectively referred to as "Claimants": Joel J. Ewusiak, Esq., Forizs & Dogali, P.L., Tampa, Florida.

For Edward D. Jones & Co., L.P. ("Edward Jones") and John M. Boyett, Jr. ("Boyett"), hereinafter collectively referred to as "Respondents": Trae D. Meyr, Esq. and Timothy Huskey, Esq., Greensfelder, Hemker & Gale, P.C., St. Louis, Missouri.

CASE INFORMATION

Statement of Claim filed on or about: October 15, 2004.

Claimants signed the Uniform Submission Agreements: October 14, 2004.

Statement of Answer filed by Respondents on or about: December 31, 2004.

Respondent Edward Jones signed the Uniform Submission Agreement: October 26, 2004.

Respondent Boyett signed the Uniform Submission Agreement: November 24, 2004.

Motion to Dismiss the Statement of Claim filed by Respondents on or about: September 26, 2005.

Response to Motion to Dismiss the Statement of Claim filed by Claimants on or about: October 20, 2005.

CASE SUMMARY

Claimants asserted the following causes of action against Respondents: breach of fiduciary duty; breach of the duty of good faith and fair dealing; negligence; and negligent supervision. The causes of action relate to Claimants' investment in shares of the common stock, Q-West Communications.

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 compensatory damages in the amount of \$308,000.00, damages to compensate

Claimants for their mental anguish, attorneys' fees, interest and costs pursuant to Florida Statutes section 517, and such other relief as deemed just and proper by the Panel.

Respondents requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents filed a Motion to Dismiss in which they asserted, among other things, that Claimants' common law claims fail as a matter of law. In their response, Claimants stated, among other things, that NASD rules do not provide for dispositive pre-hearing motions. On or about November 8, 2005, the Panel issued an Order denying Respondents' motion.

During the evidentiary hearings, Respondents orally moved for a directed verdict with respect to Claimants' failure to supervise allegation. The Panel denied Respondents' motion.

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 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:

Respondents are jointly and severally liable on the claims of negligence, breach of fiduciary duty and negligent supervision, and shall pay to Claimants compensatory damages in the amount of \$90,000.00, pre-judgment interest specifically excluded.

Respondents are not liable on the claim of breach of duty of good faith and fair dealing.

Respondents are jointly and severally liable and shall reimburse Claimants in the amount of \$225.00, representing 75% of the non-refundable claim-filing fee paid by Claimants to NASD Dispute Resolution.

Any and all claims for relief not specifically addressed herein, including Claimants' requests for relief pursuant to Chapter 517 of the Florida Statutes, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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 = \$ 300.00

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, Respondent Edward Jones is a member firm and a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during these proceedings.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

There were no three-day cancellation fees assessed during these proceedings.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

There were no injunctive relief fees assessed during these proceedings.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with the Panel @ \$1,125.00/session	= \$2,250.00
Pre-hearing conferences:	
February 23, 2005	1 session
November 8, 2005	1 session
Six (6) Hearing sessions @ \$1,125.00/session	= \$6,750.00
Hearing Dates:	
December 5, 2005	2 sessions
December 6, 2005	2 sessions
December 7, 2005	2 sessions

Total Forum Fees	= \$9,000.00
------------------	--------------

The Panel has assessed forum fees of \$2,250.00 to Claimants, jointly and severally.
The Panel has assessed forum fees of \$6,750.00 to Respondents, jointly and severally.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs assessed during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$2,250.00</u>
Total Fees	= \$2,550.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$1,125.00

Respondent Edward Jones is solely liable for:

<u>Member Fees</u>	<u>= \$5,200.00</u>
Total Fees	= \$5,200.00
<u>Less payments</u>	<u>= \$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for

<u>Forum Fees</u>	<u>= \$6,750.00</u>
Total Fees	= \$6,750.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$6,750.00

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

ARBITRATION PANEL

Jacob I. Levine	-	Public Arbitrator, Presiding Chairperson
Frank J. Tepper, Esq.	-	Public Arbitrator
Richard M. Kowalske	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Jacob I. Levine
Public Arbitrator, Presiding Chairperson

December 12, 2005
Signature Date

/s/
Frank J. Tepper, Esq.
Public Arbitrator

December 12, 2005
Signature Date

/s/
Richard M. Kowalske
Non-Public Arbitrator

December 12, 2005
Signature Date

December 13, 2005
Date of Service (For NASD Dispute Resolution office use only)

Dec. 12. 2005 1:39PM Resolution
Arbitration No. 04-07305
Award Page 4 of 4

No. 0050 P. 5

There were no administrative costs assessed during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$2,250.00
Total Fees	= \$2,550.00
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$1,125.00

Respondent Edward Jones is solely liable for:

Member Fees	= \$5,200.00
Total Fees	= \$5,200.00
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for


Forum Fees	= \$6,750.00
Total Fees	= \$6,750.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$6,750.00

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

ARBITRATION PANEL

Jacob I. Levine	-	Public Arbitrator, Presiding Chairperson
Frank J. Tepper, Esq.	-	Public Arbitrator
Richard M. Kowalske	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Jacob I. Levine
Public Arbitrator, Presiding Chairperson

12/12/05

Signature Date

Frank J. Tepper, Esq.
Public Arbitrator

Signature Date

Richard M. Kowalske
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

Arbitration No. 04-07305

Award Page 4 of 4

There were no administrative costs assessed during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$2,250.00
Total Fees	= \$2,550.00
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$1,125.00

Respondent Edward Jones is solely liable for:

Member Fees	= \$5,200.00
Total Fees	= \$5,200.00
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for

Forum Fees	= \$6,750.00
Total Fees	= \$6,750.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$6,750.00

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

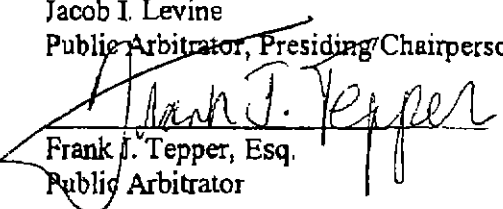
ARBITRATION PANEL

Jacob I. Levine	-	Public Arbitrator, Presiding Chairperson
Frank J. Tepper, Esq.	-	Public Arbitrator
Richard M. Kowalske	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jacob I. Levine
Public Arbitrator, Presiding Chairperson

Signature Date


Frank J. Tepper, Esq.
Public Arbitrator

Signature Date

Richard M. Kowalske
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

There were no administrative costs assessed during these proceedings.

For Summary:

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$2,750.00
Total Fees	= \$3,250.00
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$1,825.00

Respondent Edward Jones is solely liable for:

Member Fees	= \$3,200.00
Total Fees	= \$3,200.00
Less payments	= \$3,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

Forum Fees	= \$6,750.00
Total Fees	= \$6,750.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$6,750.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10070(g) of the Code.

ARBITRATION PANEL

Jacob E. Levine
 Frank J. Tappes, Esq.
 Richard M. Kowalski

" Public Arbitrator, Presiding Chairperson
 " Public Arbitrator
 " Non-Public Arbitrator


Consenting Arbitrator Signatures

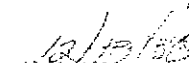
Jacob E. Levine
 Public Arbitrator, Presiding Chairperson

Signature Date

Frank J. Tappes, Esq.
 Public Arbitrator

Signature Date


 Richard M. Kowalski
 Non-Public Arbitrator


 Signature Date

Date of Service (Use NASD Dispute Resolution office use only)