

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Willie E. Climer

Case Number: 04-08133

Name of the Respondents  
Edward D. Jones & Co. and  
Greg Pharris

Hearing Site: Dallas, Texas

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**NATURE OF THE DISPUTE**

Public Customer v. Member Firm and Associated Person

**REPRESENTATION OF PARTIES**

Claimant Willie E. Climer, hereinafter referred to as "Claimant": Appeared pro se.

Respondents Edward D. Jones & Co. ("Jones") and Greg Pharris ("Pharris"), hereinafter collectively referred to as "Respondents": David J. Simmons, Esq. of the firm of Greensfelder, Hemker & Gale, P.C., located in St. Louis, Missouri.

**CASE INFORMATION**

Statement of Claim filed: November 26, 2004.

Claimant signed the Uniform Submission Agreement: November 22, 2004.

Statement of Answer filed by Respondents on: January 19, 2005.

Motion to Dismiss filed by Respondents on: January 19, 2005.

Respondent Jones signed the Uniform Submission Agreement: December 13, 2004.

Respondent Pharris signed the Uniform Submission Agreement: December 6, 2004.

Claimant's Response to the Motion to Dismiss filed on: February 3, 2005.

Supplement to the Response to the Motion to Dismiss filed on: April 19, 2005.

**CASE SUMMARY**

Claimant asserted that Respondent Pharris, in spite of his knowledge of her age and living situation, and against her express instructions, invested her money in unsuitable investments such as long-term bond and a mutual fund.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the

Statement of Claim and asserted the following defenses:

1. Claimant authorized and instructed her jones' investment representative to enter into all of the transactions that Claimant alleges were unsuitable and therefore, claims based on such transactions should be dismissed;
2. The claims asserted in the Statement of Claim are barred by the doctrines of laches, waiver and release;
3. Claimant ratified all transactions that took place in her account and therefore, is barred from recovering any alleged losses resulting from such transactions;
4. Claimant was on notice of, understood, and assumed the risks associated with the investments at issue and therefore, is barred from recovering any alleged losses resulting from such transactions;
5. To the extent that Claimant has suffered any damages, they are the product of the negligent conduct of Claimant such that some or all of her recovery is barred by those contributory or comparative negligent acts; and,
6. Claimant failed to mitigate her alleged damages and therefore, is barred from recovering any damages to the extent that such damages could have been prevented had Claimant fulfilled her duty to mitigate.

#### **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$ 5,887.90
Other Costs	Including filing fees and hearing session deposit
Other Monetary/Non-Monetary Relief if any:	As determined by the arbitrator.

Respondents requested that the Claim be dismissed in its entirety.

#### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondents filed a Motion to Dismiss alleging that Claimant suffered no damages and in fact, made a profit in the investments that were the subject of the Statement of Claim. Claimant denied this assertion, claiming that the investments were clearly unsuitable and her records indicated a taxable loss of approximately \$6,664.55. On April 27, 2005, the Arbitrator, after review of the pleadings and arguments presented by the parties, denied Respondents' Motion to Dismiss.

#### **AWARD**

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

1. The Statement of Claim is dismissed and denied in its entirety;
2. The parties shall bear their own costs of arbitration, including any attorneys' fees,

- except for those sums specifically enumerated herein; and,
3. 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 = \$ 75.00

#### **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 D. Jones & Co. is a party and the following member fees are assessed:

Member surcharge = \$ 325.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed: None.

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

The Arbitrator 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:

One (1) Pre-hearing session with a single arbitrator @ \$250.00 = \$ 250.00  
Pre-hearing conference: April 27, 2005 1 session

One (1) Hearing sessions @ \$250.00 = \$ 250.00  
Hearing Date: October 11, 2005 1 session

Total Forum Fees = \$ 500.00

The Arbitrator has assessed \$500.00 of the forum fees, jointly and severally, to Respondents Edward D. Jones & Co. and Greg Pharris.

### **EEE SUMMARY**

Claimant Willie E. Climer is solely liable for:

Initial Filing Fee = \$ 75.00  
Less payments = \$ 325.00  
Balance Refunded by NASD Dispute Resolution = \$ 250.00

Respondent Edward D. Jones & Co. is solely liable for:

Member Fees	= \$ 325.00
<u>Less payments</u>	<u>= \$ 325.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Edward D. Jones & Co. and Greg Pharris are jointly and severally liable for:

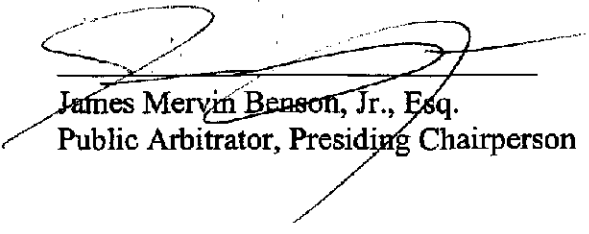
Forum Fees	= \$ 500.00
<u>Less payments</u>	<u>= \$ 750.00</u>
Balance Refunded by NASD Dispute Resolution	= \$ 250.00

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 Chairperson

**Arbitrator's Signature**

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

10-21-05  
Signature Date

10/24/05 Klu  
Date of Service (For NASD Dispute Resolution office use only)