

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

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In the Matter of the Arbitration Between:

Albert L. Potter II and FBO Albert L. Potter II SEP (Claimants) vs. Edward Jones (Respondent)

Case Number: 05-00089

Hearing Site: Columbus, Ohio

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Nature of the Dispute: Customers vs. Member

**REPRESENTATION OF PARTIES**

Claimants Albert L. Potter II ("Potter") and FBO Albert L. Potter II SEP ("Potter SEP") hereinafter referred to as "Claimants": David P. Meyer, Esq., Meyer & Associates Co., LPA, Columbus, OH.

Respondent Edward Jones hereinafter collectively referred to as "Respondent": Lisa A. Nielsen, Esq., Greensfelder, Hemker & Gale, P.C., St. Louis, MO.

**CASE INFORMATION**

Statement of Claim filed on or about: January 5, 2005.

Potter signed the Uniform Submission Agreement: December 26, 2004.

Potter SEP signed the Uniform Submission Agreement: December 26, 2004.

Statement of Answer filed by Respondent on or about: March 31, 2005.

Respondent signed the Uniform Submission Agreement: January 12, 2005.

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty, breach of contract, negligence, Ohio State Securities Laws, and failure to supervise. The causes of action relate to various unspecified securities.

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

**RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$722,598.00, disgorgement of all profits and commissions, disgorgement of margin interest and all profits earned, recovery of out-of-pocket losses, costs, expert fees, attorneys' fees, forum fees, punitive damages, and such other and any further relief as the Panel deems just, proper, and equitable.

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

### **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 is liable for and shall pay to Claimants compensatory damages in the amount of \$225,000.00.
2. Respondent is liable for and shall pay to Claimant interest at the rate of 7% per annum pursuant to Rule 10330(h) of the Code, until payment of the Award.
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 = \$ 375.00

#### **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 is a party.

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 4,000.00

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

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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:

Two (2) Decisions on discovery-related motions on the papers with (1) one arbitrator @ \$200.00	= \$ 400.00
Claimants submitted (1) discovery-related motion	
Respondent submitted (1) discovery-related motion	
One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00

Pre-hearing conference:	January 19, 2006	1 session	
Eight (8) Hearing sessions @ \$1,200.00			= \$ 9,600.00
Hearing Dates:	February 7, 2006	2 sessions	
	February 8, 2006	2 sessions	
	February 9, 2006	1 session	
	February 10, 2006	3 sessions	
Total Forum Fees			= \$10,450.00

1. The Panel has assessed \$10,450.00 of the forum fees to Respondent.

**Fee Summary**

1. Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 375.00
<u>Total Fees</u>	= \$ 375.00
<u>Less payments</u>	= \$ 1,575.00
<u>Refund Due Claimant</u>	= \$ 1,200.00
2. Respondent is solely liable for:

<u>Member Fees</u>	= \$ 7,000.00
<u>Forum Fees</u>	= \$10,450.00
<u>Total Fees</u>	= \$17,450.00
<u>Less payments</u>	= \$ 7,450.00
<u>Balance Due NASD Dispute Resolution</u>	= \$10,450.00

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

**ARBITRATION PANEL**

Philip C. Johnston	-	Public Arbitrator, Presiding Chairperson
Arnold M. Malech, Esq.	-	Public Arbitrator
John B. Glueckert	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**



Philip C. Johnston  
Public Arbitrator, Presiding Chairperson

2/24/06

Signature Date

Arnold M. Malech, Esq.  
Public Arbitrator

Signature Date

John B. Glueckert  
Non-Public Arbitrator

Signature Date

**February 28, 2006**

Date of Service (For NASD Dispute Resolution use only)

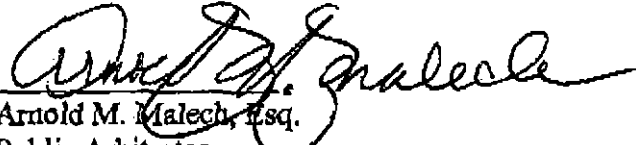
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Public Arbitrator, Presiding Chairperson

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Signature Date

  
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Arnold M. Malech, Esq.  
Public Arbitrator

February 27, 2006  
\_\_\_\_\_  
Signature Date

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John B. Glueckert  
Non-Public Arbitrator

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Signature Date

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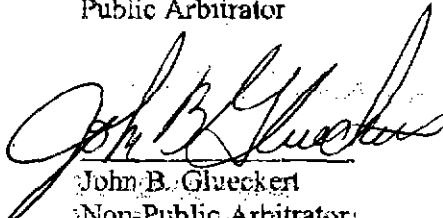
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John B. Glueckert  
Non-Public Arbitrator

2-23-06  
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Signature Date

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