

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

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In the Matter of the Arbitration Between:

Kyle and Leslie Fincel (Claimants) vs. Edward D. Jones & Co. (Respondent)

Case Number: 05-00252

Hearing Site: Columbus, Ohio

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Nature of the Dispute: Customers. Member

**REPRESENTATION OF PARTIES**

Claimants Kyle and Leslie Fincel hereinafter referred to as "Claimants": Keith L. Griffin, Esq., Maddox Hargett & Caruso, P.C., Fishers, IN.

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

**CASE INFORMATION**

Statement of Claim filed on or about: January 12, 2005.

Claimants signed the Uniform Submission Agreement: December 27, 2004.

Statement of Answer filed by Respondent on or about: March 9, 2005.

Respondent signed the Uniform Submission Agreement: January 25, 2005.

**CASE SUMMARY**

Claimants asserted the following causes of action: unsuitable investments; violations of the Ohio Securities Act; violations of NASD Conduct Rules; breach of contract; breach of constructive duty and constructive fraud; respondeat superior; negligence and negligent supervision. The causes of action relate to the sale of 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 \$62,676.00, interest, punitive damages, statutory remedies, attorneys' fees, costs, lost wages and such other and further relief as may be deemed just, proper and equitable.

Respondent requested the dismissal of the Statement of Claim and that the Panel assess the forum fees 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. Claimants' claims are dismissed in their entirety.
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 D. Jones & Co. 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 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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00

Pre-hearing conference: January 13, 2006 1 session

One (1) Pre-hearing session with Panel @ \$750.00 = \$ 750.00

Pre-hearing conference: May 27, 2005 1 session

Four (4) Hearing sessions @ \$750.00 = \$3,000.00

Hearing Dates: March 28, 2006 2 sessions

March 29, 2006 2 sessions

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Total Forum Fees = \$4,200.00

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

**Fee Summary**

1. Claimants are liable for:

<u>Initial Filing Fee</u>	= \$ 225.00
<u>Total Fees</u>	= \$ 225.00
<u>Less payments</u>	= \$ 975.00
<u>Refund Due Claimants</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>	= \$5,250.00
<u>Balance Due NASD Dispute Resolution</u>	= \$2,500.00

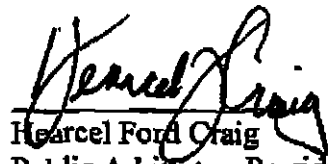
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Hearcel Ford Craig	-	Public Arbitrator, Presiding Chairperson
Mary D. Stevenson, J.D.	-	Public Arbitrator
Robert Rapp, Esq.	-	Non-Public Arbitrator

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, which is my award.

**Concurring Arbitrators' Signatures**



Hearcel Ford Craig  
Public Arbitrator, Presiding Chairperson

  
Signature Date

Mary D. Stevenson, J.D.  
Public Arbitrator

Signature Date

Robert Rapp, Esq.  
Non-Public Arbitrator

Signature Date

April 7, 2006  
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

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Mary D. Stevenson, J.D.	-	Public Arbitrator
Robert Rapp, Esq.	-	Non-Public Arbitrator

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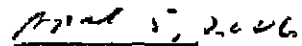
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Hearcel Ford Craig  
Public Arbitrator, Presiding Chairperson

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Signature Date

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Mary D. Stevenson, J.D.  
Public Arbitrator

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