

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

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In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 05-02575

Sherre M. Burbage, as custodian for  
the accounts of Dennis and Christopher  
Burbage

Names of the Respondents

Hearing Site: Columbia, South Carolina

Edward Jones  
Michael Ray Grubb

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

**REPRESENTATION OF PARTIES**

Claimant Sherre M. Burbage, as custodian for the accounts of Dennis and Christopher Burbage, hereinafter referred to as "Claimant", was represented by Amanda R. Maybank, Esq., Pratt-Thomas, Epting & Walker, PA, Charleston, South Carolina.

Respondent Edward Jones ("Edward Jones") was represented by E. Linwood Gunn, IV, Esq., Brock, Clay & Calhoun, PC, Marietta, Georgia.

Respondent Michael Ray Grubb ("Grubb") was represented by James B. Hood, Esq., Hood Law Firm, LLC, Charleston, South Carolina.

**CASE INFORMATION**

Statement of Claim filed on or about May 16, 2005.

Claimant signed the Uniform Submission Agreement on May 9, 2005

Statement of Answer filed by Respondent Edward Jones on July 21, 2005.

A representative of Respondent Edward Jones executed the Uniform Submission Agreement on June 8, 2005.

Statement of Answer filed by Respondent Grubb on August 19, 2005.

Respondent Grubb signed the Uniform Submission Agreement on July 18, 2005.

**CASE SUMMARY**

Claimant asserted the following causes of action, among others: suitability, breach of fiduciary duty, negligence and gross negligence. The causes of action relate to mutual funds.

Unless specifically admitted in its Answer, Respondent Edward Jones denied the allegations made in the Statement of Claim and asserted the following defenses,

among others: failure to state a claim upon which relief may be granted, ratification, assumption of risk, statute of limitations, waiver, estoppel, and failure to mitigate.

Unless specifically admitted in his Answer, Respondent Grubb denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted, ratification, assumption of risk, statute of limitations, waiver, estoppel, and failure to mitigate.

#### RELIEF REQUESTED

Claimant requested compensatory damages of \$50,000.00 in compensatory damages as well as punitive damages, attorneys' fees, interest, and costs.

Respondent Edward Jones in its Statement of Answer requested that the Claimant's claims be dismissed and an award of attorneys' fees and costs.

Respondent Grubb in his Statement of Answer requested that the Claimant's claims be dismissed and an award of attorneys' fees and costs.

#### OTHER ISSUES CONSIDERED AND DECIDED

By letter dated March 13, 2006, Claimant agreed to limit her compensatory damage claim to \$50,000.00.

Prior to the opening of the evidentiary hearing, Claimant settled all claims against Respondent Grubb.

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, and the post-hearing submissions, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against Respondents are denied in their entirety;
2. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
3. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

## 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 = \$ 175.00

### Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Edward Jones is a party.

Member surcharge = \$ 875.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$1,000.00

Total Member Fees = \$2,625.00

### Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

March 20-21, 2006, adjournment by the parties = \$ 450.00

1. The Arbitrator has assessed \$225.00 of the adjournment fees to Claimant.
2. The Arbitrator has assessed \$225.00 of the adjournment fees to Respondent Edward Jones.

### 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 @ \$450.00 = \$ 450.00  
Pre-hearing conference: November 21, 2005 1 session

Two (2) Hearing sessions @ \$450.00 = \$ 900.00

Hearing Date: May 17, 2006 2 sessions

Total Forum Fees = \$1,350.00

1. The Arbitrator has assessed \$675.00 of the forum fees to Claimant.
2. The Arbitrator has assessed \$675.00 of the forum fees to Respondent Edward Jones.

FEE SUMMARY

## 1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 175.00
Adjournment Fee	= \$ 225.00
<u>Forum Fees</u>	<u>= \$ 675.00</u>
Total Fees	= \$1,075.00
<u>Less payments</u>	<u>= \$2,175.00</u>
Refund Owed Claimant	= \$1,100.00

## 2. Respondent Edward Jones is assessed and shall pay the following fees:

Member Fees	= \$2,625.00
Adjournment Fee	= \$ 225.00
<u>Forum Fees</u>	<u>= \$ 675.00</u>
Total Fees	= \$3,525.00
<u>Less payments</u>	<u>= \$3,775.00</u>
Refund Owed Respondent	= \$ 250.00

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

SOLE ARBITRATOR

Donald M. Helton

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Public Arbitrator, Presiding Panelist

Arbitrator's Signature

Donald M. Helton

Public Arbitrator, Presiding Panelist

5-30-06  
Signature Date

May 31, 2006  
Date of Service (For NASD Dispute Resolution office use only)