

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 05-03910

Walter O. Race

Name of the Respondent

Hearing Site: Philadelphia, Pennsylvania

Edward D. Jones & Co.

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

Claimant, Walter O. Race, hereinafter referred to as "Claimant", was represented by Christopher B. Jones, Esq., Law Offices of Christopher B. Jones, Scranton, PA.

Respondent, Edward D. Jones & Co., hereinafter referred to as "Respondent", was represented by Stephen M. Plotnick, Esq., Lowenstein Sandler PC, Roseland, NJ.

CASE INFORMATION

Statement of Claim filed on September 2, 2005.

Claimant signed the Uniform Submission Agreement on July 22, 2005.

Respondent filed a Statement of Answer on December 19, 2005.

A representative of Respondent executed the Uniform Submission Agreement on October 13, 2005.

Respondent filed a Motion to Dismiss the Statement of Claim With Prejudice on April 17, 2006.

Claimant filed a Response to Respondent's Motion to Dismiss on May 17, 2006.

CASE SUMMARY

Claimant asserted the following causes of action, among others: unsuitability, fraud and misrepresentation; breach of fiduciary duty; failure to supervise; *respondeat superior*; Pennsylvania Securities Act; Pennsylvania Unfair Trade Practices and Consumer Protection Law; and loss of opportunity. The causes of action relate to annuities.

Unless specifically admitted in its Answer, Respondent 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; statute of limitations; estoppel; authorization and/or execution of all transactions; waiver and ratification; failure to mitigate damages; good faith, exercised care, diligence and skill; no breach of duty owed to Claimant; any damages suffered were caused by events or persons beyond

the control of Respondent; and comparative negligence.

RELIEF REQUESTED

Claimant in his Statement of Claim requested compensatory damages in excess of \$ 100,000.00, punitive damages, attorneys' fees and costs.

Respondent in its Statement of Answer requested a dismissal of the Statement of Claim in its entirety with prejudice, forum fees, costs and such other and further relief as may be just and proper.

AWARD

After considering the pleadings and argument, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims are barred by the Statute of Limitations and therefore are dismissed with prejudice;
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	= \$	Waived
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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 is a party.

Member surcharge	= \$	1,100.00
Pre-hearing process fee	= \$	750.00
<u>Hearing process fee</u>	<u>= \$</u>	<u>1,700.00</u>
Total Member Fees	= \$	3,550.00

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 Panel @ \$ 750.00	= \$	1,500.00
Pre-hearing conferences: April 11, 2006 1 session		
June 8, 2006 1 session		
Total Forum Fees	= \$	1,500.00

1. The Panel has assessed \$ 750.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 750.00 of the forum fees to Respondent.

FEE SUMMARY

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

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

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

Member Fees	= \$	3,550.00
Forum Fees	= \$	750.00
Total Fees	= \$	4,300.00
Less payments	= \$	3,550.00
Balance Due NASD Dispute Resolution	= \$	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

James Kenneth Fruehling, Esq.	-	Public Arbitrator, Presiding Chairperson
Peter A. Scarpato, Esq.	-	Public Arbitrator, Panelist
Jon Alan Metta	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



James Kenneth Fruchling, Esq.
Public Arbitrator, Presiding Chairperson

7/17/6
Signature Date

Peter A. Scarpato, Esq.
Public Arbitrator, Panelist

Signature Date

Jon Alan Metta
Non-Public Arbitrator, Panelist

Signature Date

July 17, 2006
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

James Kenneth Eruehling, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Peter A. Scarpato, Esq.
Public Arbitrator, Panelist

7/14/06
Signature Date

Jon Alan Metta
Non-Public Arbitrator, Panelist

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