

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

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In the Matter of the Arbitration Between:

Richard Lund (Claimant) vs. Edward Jones (Respondent)

Case Number: 05-04166

Hearing Site: Hartford, Connecticut

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Nature of the Dispute: Customer vs. Member

**REPRESENTATION OF PARTIES**

Claimant Richard Lund hereinafter referred to as "Claimant": Howard M. Rosenfield, Esq., Howard M. Rosenfield, Attorney at Law, Farmington, CT.

Respondent Edward Jones hereinafter referred to as "Respondent": David J. Simmons, Esq., and Lisa Nielsen, Esq., Greensfelder, Hemker & Gale, P.C., St. Louis, MO.

**CASE INFORMATION**

Statement of Claim filed on or about: July 26, 2005.

Claimant signed the Uniform Submission Agreement: July 6, 2005.

Statement of Answer filed by Respondent on or about: October 3, 2005.

Respondent signed the Uniform Submission Agreement: August 15, 2005.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of fiduciary duty, misrepresentations, violation of Sections 10(b) and 20(a) of the Exchange Act and Rule 10b-5, violation of the Connecticut Uniform Securities Act, violation of the Connecticut Unfair Trade Practices Act, suitability, common law fraud, conversion, recklessness, breach of contract, and failure to supervise. The causes of action relate to J.D.S. Uniphase Corp. stock and Van Kempen Emerging Growth Fund.

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

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$50,000.00, costs, expenses, punitive damages, attorneys' fees, and such other relief as the Panel deems just and proper.

Respondent requested dismissal of the Statement of Claim in its entirety.

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

During the hearing, Respondent moved to dismiss Counts 1 through 8 and Count 10 of the Statement of Claim. The Panel heard oral arguments, and after due deliberation, granted Respondent's Motion to Dismiss. In addition, Claimant withdrew Count 7 of his Statement of Claim. Claimant's case proceeded solely on Count 9 of the Statement of Claim.

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. Claimant's claims are denied 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	= \$ 175.00
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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 firm that employed the associated person at the time of the event giving rise to the dispute. Accordingly, Edward Jones is a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 1,000.00

#### **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) Pre-hearing sessions with Panel @ \$600.00/session	= \$ 1,200.00
Pre-hearing conferences: December 13, 2005	1 session
January 18, 2006	1 session

Four (4) Hearing sessions with Panel @ \$600.00/session	= \$ 2,400.00
Hearing dates: August 29, 2006	2 sessions
August 30, 2006	2 sessions

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Total Forum Fees	= \$3,600.00
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1. The Panel has assessed \$1,800.00 of the forum fees to Claimant.
2. The Panel has assessed \$1,800.00 of the forum fees to Respondent.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 175.00
Forum Fees	= \$ 1,800.00
Total Fees	= \$ 1,975.00
Less payments	= \$ 775.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

2. Respondent is solely liable for:

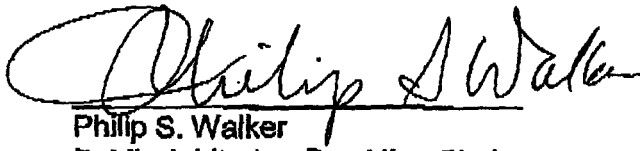
Member Fees	= \$ 2,625.00
Forum Fees	= \$ 1,800.00
Total Fees	= \$ 4,425.00
Less payments	= \$ 2,625.00
Balance Due NASD Dispute Resolution	= \$ 1,800.00

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

**ARBITRATION PANEL**

Philip S. Walker	-	Public Arbitrator, Presiding Chairperson
Louis Robert Pepe, Esq.	-	Public Arbitrator
Mark J. Gianno, CPA	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**



Philip S. Walker  
Public Arbitrator, Presiding Chairperson



Signature Date

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Louis Robert Pepe, Esq.  
Public Arbitrator

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Signature Date

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Mark J. Gianno, CPA  
Non-Public Arbitrator

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Signature Date

September 7, 2006

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Date of Service (For NASD Dispute Resolution use only)

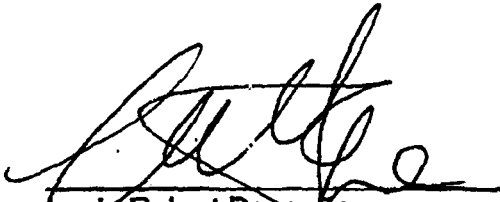
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Public Arbitrator, Presiding Chairperson

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Public Arbitrator

5 Sept 06  
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