

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between	}	CASE NO. 88-00540 A W A R D
Keith K. Stocker and Deborah A. Stocker		
Claimants		
and		
Edward D. Jones & Co. and Gary Peart		
Respondents		

CASE SUMMARY

In a claim filed with the NASD on February 22, 1988, the Claimants Keith K. and Deborah A. Stocker, (" the Stocker's") alleged that Respondents Edward D. Jones and Co., (" Edward D. Jones") and Gary Peart, (" Peart ") breached their duty of due care and due diligence in failing to execute the Stocker's order to sell 3000 shares of Tiffany stock on or about October 13, 1987. By failing to exercise due care to remove the restrictions placed on the Stocker's Tiffany stock, the Stocker's alleged that Edward D. Jones and Peart were guilty of negligence, breach of contract, breach of fiduciary duty and violation of Section 10(b) of the Securities Exchange Act of 1934.

Edward D. Jones and Peart replied that the Stocker's Tiffany stock was restricted from resale pursuant to SEC Rule 144 adopted under Section 5 of the Securities Act of 1933. Edward D. Jones and Peart alleged that every effort was undertaken to remove the restrictions on the Tiffany stock in order to execute the sale. The Stocker's later chose to liquidate their position in Tiffany stock during January of 1988 at a lower price than that at which the stock traded recently. Edward D. Jones and Peart also alleged that they acted responsibly at all times.

### RELIEF REQUESTED

The Stocker's requested damages in the amount of \$52,000 which was the difference in price between what they alleged the Tiffany stock should have been sold and the price at which it was ultimately sold, plus interest, reasonable attorney's fees and costs. Edward D. Jones and Peart requested dismissal of the claim in its entirety.

### AWARD

On Thursday, March 2, 1989 and Tuesday, July 18, 1989 in Chicago, Illinois, during a hearing lasting 4 sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on February 15, 1988 by Claimants Keith and Deborah Stocker, on May 5, 1988 by Louis R. Branz on behalf of Respondent Edward D. Jones & Co. and on May 9, 1988 by Respondent Gary Peart.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. The claim asserted against Peart by the Stockers shall be and is hereby dismissed in its entirety;
2. Edward D. Jones is liable for and shall pay to the Stockers, jointly, the sum of Three Thousand Three Hundred Seventy five Dollars and no cents (\$3,375.00);
3. No interest is awarded on the above stated sum;
4. The parties shall each bear their respective costs and expenses including any attorney's fees incurred in this matter; and

5. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the \$500.00 filing fee previously deposited with the NASD by the Stockers and Edward D. Jones is assessed and shall pay to the NASD, as forum fees, the sum of \$2000.00.

By the Panel

/S/John J. Enright, Esq.  
Presiding Chair

/S/Warren P. Landsman, Esq.

/S/Mark F. Duffy, Esq.