

Fred K. Thomson,

Claimant

v.

Edward D. Jones & Co.

Respondent

Case No. 88-00762

### PROCEDURAL SUMMARY

On March 8, 1988, Fred K. Thomson filed with the National Association of Securities Dealers, Inc. (hereinafter "NASD") a Statement of Claim asserting a cause of action against Edward D. Jones & Co. (hereinafter "Respondent"). A Statement of Answer was filed with the NASD on May 8, 1988 by the Respondent. Uniform Submission Agreements were signed on December 31, 1987 by Claimant Fred K. Thomson, and on May 18, 1988 by Louis R. Branz on behalf of Edward D. Jones & Co.

In August of 1988, prior to the scheduled hearing date (November 2, 1989), Fred K. Thomson expired, leaving as his heirs his children, Linda Kay Thomson, Jerry Martin Thomson, Diane Thomson and Mark Steven Thomson. Subsequently, Stephen Levy filed an appearance in this matter on behalf of the four children of Fred Thomson to pursue this action and to request a continuance of the scheduled hearing date.

Mr. Levy's request for a continuance was granted and a new hearing date was set for July 25, 1990. Prior to the scheduled hearing date a prehearing conference was held in which the Chairman of the Arbitration Panel determined that the children of Fred K. Thomson were not the proper parties to maintain this action. The case was adjourned for 30 days to give Mr. Levy time to re-open the estate if necessary and to substitute the proper party to maintain the action.

In a prehearing conference on October 10, 1991, the Arbitration Panel dismissed the claim of Fred K. Thomson, without prejudice and allowed 45 days for Claimant's counsel to move to vacate dismissal and substitute a proper party to maintain the action.

A motion was submitted by Claimant's counsel to set aside the order of dismissal, but the Arbitration Panel ruled in a prehearing conference held on December 12, 1990, that the motion failed to substitute a proper party to maintain the action. Specifically, the Arbitration Panel determined that, "The

proposed substitute Claimants are legally inadequate and lack legal capacity to bring this arbitration action. However, the Claimant is given 45 days from the date of this memorandum to substitute a Claimant who has the legal capacity to proceed based on further action of the Circuit Court of McDonough County, Illinois, and to amend the Motion thereto."

Since the issuance of this order on December 12, 1990, 45 days have elapsed and there has been no showing by the Claimant's counsel that the legal capacity of the substitute Claimants to bring this action is adequate or that a proper party has been substituted to proceed with this action.

**ORDER**

Due to Claimant's failure to produce a substitute Claimant with the legal capacity to bring this action, or to show that the named substitute Claimants possess the legal capacity to maintain this proceeding within 45 days of the order issued on December 12, 1990, this action, NASD Arbitration No. 88-00762, Fred R. Thomson v. Edward D. Jones & Co. is hereby dismissed without prejudice.

Dated:

4/8/91

John J. Enright, Esq.

Mark E. Miller, Esq.

Gordon A. Neal

proposed substitute Claimants are legally inadequate and lack legal capacity to bring this arbitration action. However, the Claimant is given 45 days from the date of this memorandum to substitute a Claimant who has the legal capacity to proceed based on further action of the Circuit Court of McDonough County, Illinois, and to amend the Motion thereto."

Since the issuance of this order on December 12, 1990, 45 days have elapsed and there has been no showing by the Claimant's counsel that the legal capacity of the substitute Claimants to bring this action is adequate or that a proper party has been substituted to proceed with this action.

ORDER

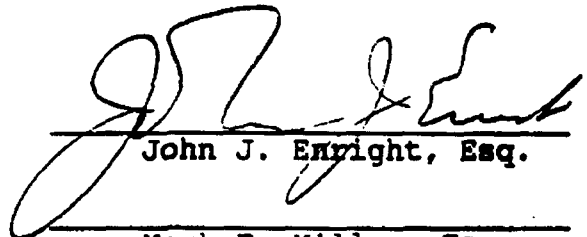
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Dated:

Apr 8, 1991

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John J. Enright, Esq.

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Mark E. Miller, Esq.

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Gordon A. Neal

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**ORDER**

Due to Claimant's failure to produce a substitute Claimant with the legal capacity to bring this action, or to show that the named substitute Claimants possess the legal capacity to maintain this proceeding within 45 days of the order issued on December 12, 1990, this action, NASD Arbitration No. 88-00762, Fred R. Thomson v. Edward D. Jones & Co. is hereby dismissed without prejudice.

Dated:

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*April 7, 1991*

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John J. Enright, Esq.  
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Mark E. Miller, Esq.  
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Gordon A. Neal