

N.A.S.D. ANARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Carl B. Allen

90-00402

Name of Respondents

Edward D. Jones & Co.  
Cort L. Cheney

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REPRESENTATION OF PARTIES

For Claimant(s): Carl B. Allen appeared pro se

For Respondent(s): Edward D. Jones & Co. and Cort Cheney were represented by Cynthia A. Doria, Esq. of Edward D. Jones & Co., Maryland Heights, MO.

CASE INFORMATION

Statement of Claim filed on or about February 5, 1990.

Claimant's Submission Agreement signed on January 31, 1990 by Carl B. Allen.

Statement of Answer filed by Respondents Edward D. Jones & Co. and Cort Cheney on or about March 27, 1990.

Respondent Edward D. Jones & Co.'s Submission Agreement signed on March 21, 1990 by Cynthia A. Doria. Respondent Cort Cheney's Submission Agreement signed on March 15, 1990 by Cort Cheney.

HEARING INFORMATION

Pre-Hearing conference held on Friday, October 25, 1991 lasting one (1) session.

Hearing date: Wednesday, November 6, 1991 in Little Rock, Arkansas.

CASE SUMMARY

Claimant alleged that Cort Cheney ("Cheney"), a registered representative at Edward D. Jones & Co. ("Jones") (collectively as "Respondents") made material misrepresentations with regard to his purchase of units in University High Equity II. Claimant specifically alleged that he was told his principal

amount of investment would double or triple in five to seven years.

In their Motion to Dismiss and Statement of Answer, Respondents asserted a motion to dismiss pursuant to Section 15 of the NASD Code of Arbitration Procedure and the applicable statutes of limitations. In support of their motion to dismiss, Respondents stated that the investment complained of herein was made on or about July 12, 1982. Respondents argued that the time periods set forth in Section 15 have been exceeded in addition to any federal or state statute of limitations. Respondents also denied making any misrepresentations and stated that the Claimant's complaint appears to be that the limited partnership was mismanaged. Respondents further stated that they have no responsibility for the management of the limited partnership.

#### RELIEF REQUESTED

Claimant requested an award in the approximate amount of \$10,000.00.

Respondents requested that the Statement of Claim be denied and an award of reasonable attorney's fees and travel expenses.

#### OTHER ISSUES CONSIDERED & DECIDED

The arbitrator having reviewed the written submissions of the parties and having heard the oral arguments of the parties during the telephonic pre-hearing conference on October 25, 1991 has taken Respondents' Motion to Dismiss under advisement. After hearing the testimony and evidence presented at the hearing on November 6, 1991 the arbitrator denied the Motion to Dismiss.

The parties have agreed that a handwritten, signed Award may be entered and to receive conformed copies of the award while the original remains on file with the NASD.

#### AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Statement of Claim shall be and hereby is denied in its entirety;
2. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

#### FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

One pre-hearing conference session X \$200.00 = \$200.00  
One hearing session X \$200.00 = \$200.00 total of forum fees= \$400.00. The Claimant has paid a non-refundable filing fee in the amount of \$75.00. Forum fees in the amount of \$200.00 assessed against Carl B. Allen. The NASD shall retain the balance of \$125.00 previously deposited with the NASD and claimant shall be pay to the NASD a sum of \$75.00. Forum fees in the amount of \$200.00 shall assessed against Respondent Edward D. Jones & Co.

Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

71-11-41

  
Judy P. McNeil, Esq.  
Public Arbitrator