

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

---

**In the Matter of the Arbitration Between**

**Name of Claimant**

**Jerry C. Lindsey**

**94-00634**

**Name of Respondent**

**Edward D. Jones & Co.**

---

**REPRESENTATION**

**For Claimant: Jerry C. Lindsey ("Lindsey") appeared pro se.**

**For Respondent: Edward D. Jones & Co. ("Jones") was represented by Cynthia A. Doria, Esq. of Edward D. Jones & Co., Maryland Heights, Missouri.**

**CASE INFORMATION**

**Statement of Claim filed: February 22, 1994.**

**Claimant's Submission Agreement signed on: August 13, 1993.**

**Statement of Answer filed by Respondent on: May 26, 1994.**

**Respondent's Submission Agreement signed on: May 25, 1994 by Cynthia A. Doria, Assistant General Counsel, Edward D. Jones & Co.**

**HEARING INFORMATION**

**Pre-Hearing Conference: None Held.**

**Hearing Date/Sessions: February 17, 1995 for Two (2) sessions.**

**Hearing Location: Houston, Texas**

**CASE SUMMARY**

**Claimant Lindsey alleged that Respondent Jones failed to properly allocate funds as he directed**

in the purchase of a \$100,000.00 Anchor Life Variable Annuity he purchased on July 7, 1989. Upon discovering that the allocation was incorrect, Lindsey notified Jones immediately that he wanted to cancel, but was told that it was too late. Lindsey alleged that he should have had 10 days from the receipt of the contract to cancel. The allocation of funds was corrected on August 28, 1989. The 51 day delay resulted in a loss of approximately \$11,000.00.

In addition, Lindsey alleged that Jones failed to transfer the funds in the annuity into his Cash Management account when requested on July 23, 1990. The transfer was accomplished in November, 1990. Lindsey alleged that this was an unauthorized transfer because it was an unreasonably long 90 days from his request and he should have had the opportunity to be consulted. This resulted in a loss of approximately \$38,583.00.

Respondent Jones denied the material allegations of the Statement of Claim, asserting that the Jones registered representative fully complied with all duties imposed upon him in connection with the transactions at issue. Jones further alleged that the allocations were part of the application signed by Lindsey after discussion with the Jones representative who convinced Lindsey to be more conservative in his investment allocation. In addition, the delay in the transfer of the funds into the Cash Management account result from the invalidity of the password that Lindsey had with Anchor and was not the result of any action or inaction by Jones.

#### **RELIEF REQUESTED**

Claimant requested entry of an award against Respondents for the sum of \$11,191.34 for the failure to properly allocate the funds and the sum of \$38,583.00 for the unauthorized transfer in October of 1990.

Respondent requested that the claim be dismissed in its entirety.

#### **OTHER ISSUES CONSIDERED & DECIDED**

The Claimant named Anchor National Life Insurance Company ("Anchor") as a Respondent in the Statement of Claim. Anchor is not a member of the NASD and declined to voluntarily submit to arbitration.

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. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

#### **AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing, the

3. Respondent Ivory Adolescent Center, Inc. is liable and shall pay to the Claimant Merrill Lynch, Pierce, Fenner & Smith, Inc. the sum of \$180.00, representing attorney's fees.
4. The parties shall bear their respective costs.
5. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Merrill Lynch, Pierce, Fenner & Smith, Inc. shall be retained by the NASD, Inc. Respondent Ivory Adolescent Center, Inc. is liable and shall pay to the Claimant the sum of \$575.00 as reimbursement.

**AFFIRMATION**

I, **MARTHA FAILING**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



\_\_\_\_\_  
Signature of Arbitrator

**DATE OF DECISION:**            **March 2, 1993**