

**Award
NASD Regulation, Inc.**

In the Matter of the Arbitration Between:

Stanley J. Ferguson, Claimant vs. Edward D. Jones & Co., Respondent.

Case Number: 99-02215

Hearing Site: Portland, Oregon

REPRESENTATION OF PARTIES

Claimant, Stanley J. Ferguson, hereinafter referred to as "Claimant": Robert S. Banks, Jr., Esq., Banks & Underhill, P.C., Portland, Oregon

Respondent, Edward D. Jones & Co. ("Edward Jones"), hereinafter referred to as "Respondent": Scott A. Shorr, Esq., Stoll Stoll Berne Lokting & Shlachter P.C., Portland, Oregon

CASE INFORMATION

Statement of Claim filed on or about: May 13, 1999

Claimant, Stanley J. Ferguson, signed the Uniform Submission Agreement: May 5, 1999

Statement of Answer filed by Respondent, Edward D. Jones & Co., on or about: July 13, 1999

Respondent, Edward D. Jones & Co., signed the Uniform Submission Agreement: June 2, 1999

CASE SUMMARY

Claimant alleged that his account suffered damages because of Respondent's failure to follow Claimant's instruction to sell shares of Netscape Communications Corp. stock at \$60.

Respondent denied Claimant's allegations and alleged that Claimant's order was filled in a proper manner according to NASD rules and securities industry practice. Respondent also asserted the following affirmative defenses: At all times, Edward Jones exercised reasonable care in the handling of Claimant's account and the sale of his Netscape stock; any losses sustained by Claimant are attributable to market conditions and to Claimant's own investment decisions, not to any action or inaction on Edward Jones' behalf; Edward Jones is not liable for any damages suffered by Claimant because acts of others constitute independent, intervening, and superseding causes relieving Edward Jones of any liability; Claimant has failed to state a claim against Edward Jones upon which relief may be granted; and if any losses or damages were suffered by Claimant, then Claimant failed to take reasonable and necessary steps to mitigate and minimize such losses and damages.

RELIEF REQUESTED

Claimant's Claim requested damages in the amount of \$9,234.25. Claimant further requested costs including filing and hearing fees; attorney fees; and such other relief as the arbitrator deems appropriate.

Respondent requested an award dismissing the Statement of Claim against Edward Jones, together with the costs, disbursements, and attorney fees incurred in this action.

OTHER ISSUES CONSIDERED AND DECIDED

None.

AWARD

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

1. Respondent is liable for and shall pay to Claimant the sum of \$9,856.51 with respect to the Netscape purchase.
2. Respondent is liable for and shall pay to Claimant the sum of \$975.79 in interest.
3. Respondent is liable for and shall pay to Claimant the sum of \$75.00 as reimbursement for Claimant's filing fee.
4. Respondent is liable for and shall pay to Claimant the sum of \$5,000.00 in attorney's fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$75.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$300.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Hearing sessions x \$250.00 = \$500.00

Hearing Date: February 24, 2000 2 sessions

Total Forum Fees = \$500.00

1. The Panel has assessed the \$500.00 in forum fees to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Fee Summary

1. Claimant, be and hereby is solely liable for:

Initial Filing Fee	= \$ 75.00
Member Fees	= \$ 0.00
Adjournment Fee	= \$ 0.00
Forum Fees	= \$ 0.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$ 75.00
<u>Less payments</u>	= \$ 325.00
Balance (Refund)	= \$ 250.00

2. Respondent, be and hereby is solely liable for:

Member Fees	= \$ 300.00
Adjournment Fee	= \$ 0.00
Forum Fees	= \$ 500.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$ 800.00
<u>Less payments</u>	= \$ 300.00
Balance Due NASD Regulation, Inc.	= \$ 500.00

All balances are due to NASD Regulation, Inc. and are payable within 30 days of the service date of this Award.

Presiding Arbitrator's Signature



Edward Brunet, Esq. **Date Served:**
Public Arbitrator

MAR 23 2000

March 15, 2000

Signature Date

Date of Service (For NASD office use only)