

**Award**  
**NASD Dispute Resolution**

---

In the Matter of the Arbitration Between:

Peter P. Palkowetz, Daniel P. Palkowetz, Timothy P. Palkowetz and Susan D. Palkowetz, joint tenants, Janet Hochroth, Alan Hochroth, individually and as Trustee of the Hochroth Family Trust, Judith Hochroth, Charles Allen and Phyllis Allen, Co-Trustees of the Allen Family Trust, Mary Dale Scheidt and Mel P. Scheidt, both in their individual capacities and as joint tenants, Julian B. Hyman, M.D., Harvey A. Hyman, and Lael Carlson as joint tenants (Claimants) v. Prudential Securities, Inc. n/k/a Prudential Equity Group, Inc. and Alan Sobelman (Respondents)

Case Number: 00-03822

Hearing Site: Newark, New Jersey

---

Nature of the Dispute: Customers vs. Member and Associated Person.

**REPRESENTATION OF PARTIES**

Claimants Peter P. Palkowetz, Daniel P. Palkowetz, Timothy P. Palkowetz, and Susan D. Palkowetz ("the Palkowetz Family"), Alan Hochroth IRA, Janet Hochroth IRA, and the Hochroth Family Trust ("the Hochroth Family"), Judith Hochroth ("J. Hochroth"), the Allen Family Trust, Charles Allen and Phyllis Allen, Co-Trustees ("the Allen Family"), Mary Dale Scheidt IRA, Mel P. Scheidt IRA, and Mary Dale Scheidt and Mel P. Scheidt joint tenants ("the Scheidt Family"), Julian B. Hyman, M.D., Harvey A. Hyman, and Lael Carlson ("the Hyman Family") hereinafter collectively referred to as "Claimants"; Jeffrey W. Hermann, Esq., Cohn Lifland Pearlman Herrman & Knopf, Saddle Brook, NJ.

Respondent Prudential Securities, Inc. n/k/a Prudential Equity Group, Inc. ("Prudential") and Alan Sobelman ("Sobelman") hereinafter collectively referred to as "Respondents"; Brian F. McDonough, Esq., Drink Biddle & Reath, LLP, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: August 29, 2000.

Amended Statement of Claim filed on or about: January 22, 2004.

Claimant Peter P. Palkowetz signed the Uniform Submission Agreement: October 20, 2000.

Claimant Daniel P. Palkowetz signed the Uniform Submission Agreement: October 26, 2000.

Claimant Timothy P. Palkowetz signed the Uniform Submission Agreement: October 20, 2000.

Claimant Susan D. Palkowetz signed the Uniform Submission Agreement: October 27, 2000.

Claimant Alan Hochroth, individually, as the Executor of the Estate of Janet Hochroth, and as Trustee of the Hochroth Family Trust signed the Uniform Submission Agreement: October 17, 2000.

Claimant Janet Hochroth signed the Uniform Submission Agreement: April 27, 2000.

Judith Hochroth signed the Uniform Submission Agreement: January 5, 2004.

Claimant Charles Allen, co-Trustee of the Allen Family Trust signed the Uniform Submission Agreement: October 18, 2000.

Claimant Phyllis Allen, co-Trustee of the Allen Family Trust signed the Uniform Submission Agreement: October 18, 2000.

Claimant Mary Dale Scheidt signed the Uniform Submission Agreement: October 18, 2000.

Claimant Mel P. Scheidt signed the Uniform Submission Agreement: October 18, 2000.

Claimant Julian B. Hyman signed the Uniform Submission Agreement: October 17, 2000.

Claimant Harvey A. Hyman signed the Uniform Submission Agreement: October 19, 2000.

Claimant Lael Carlson signed the Uniform Submission Agreement: November 10, 2000.

Joint Statement of Answer filed by Respondents on or about: February 9, 2001.

Respondent Sobelman signed the Uniform Submission Agreement: February 18, 2001.

### **CASE SUMMARY**

In the Statement of Claim and Amended Statement of Claim, Claimants asserted the following causes of action: false and misleading statements; omission of material fact; respondeat superior; misrepresentation; and unsuitability. Claimants' claim involved shares of Criimi Mae.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimants requested compensatory damages in the amount of \$336,877.78, plus interest, punitive damages, and reasonable attorneys' fees. In the Amended Statement of Claim, Claimants requested compensatory damages in the amount of \$367,987.72, plus interest, punitive damages, reasonable attorneys' fees, and the cost of arbitration.

Respondents requested that the claim be dismissed in its entirety, that they be awarded the costs of this arbitration, and that all references to this matter be expunged from Respondent Sobelman's Central Registration Depository ("CRD") records.

**OTHER ISSUES CONSIDERED AND DECIDED**

Respondent Prudential did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, and appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

The Claimants amended their claim to increase their damages to \$409,473.63, plus 5% interest from October 5, 1998 to March 8, 2004.

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.

**AWARD**

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

1. Respondents are jointly and severally liable for and shall pay to the Palkowetz Family compensatory damages in the amount of \$25,000.00.
2. Respondents are jointly and severally liable for and shall pay to the Hochroth Family compensatory damages in the amount of \$25,000.00.
3. Respondents are jointly and severally liable for and shall pay to the Hyman Family compensatory damages in the amount of \$11,000.00.
4. Respondents are jointly and severally liable for and shall pay to Judith Hochroth compensatory damages in the amount of \$4,000.00.
5. Respondents are jointly and severally liable for and shall pay to the Allen Family compensatory damages in the amount of \$6,000.00.
6. Respondents are jointly and severally liable for and shall pay to the Scheidt Family compensatory damages in the amount of \$4,000.00.
7. Any and all relief not specifically addressed herein is denied.

**FEES**

Pursuant to the Code, the following fees are assessed:

**Filing Fees**

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$300.00

**Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Prudential Securities, Inc. n/k/a Prudential Equity Group, Inc. is a party.

Member surcharge = \$1,500.00  
Pre-hearing process fee = \$ 600.00  
Hearing process fee = \$2,500.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

December 6, 7, 13, 14, 20, and 21, 2001, adjournment by  
Respondents = Waived  
March 7, 8, 19 and 20, 2002 adjournment by Claimants = Waived

**Forum Fees and Assessments**

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

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00  
Pre-hearing conference: February 8, 2002 1 session

One (1) Pre-hearing session with Panel @ \$1,125.00 = \$1,125.00  
Pre-hearing conference: July 11, 2001 1 session

Six (6) Hearing sessions @ \$1,125.00 = \$6,750.00  
Hearing Dates: March 8, 2004 2 sessions  
March 9, 2004 2 sessions  
March 10, 2004 2 sessions

---

Total Forum Fees = \$8,325.00

1. The Panel has assessed \$4,162.50 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$4,162.50 of the forum fees jointly and severally against Respondents.

**Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$4,162.50
Total Fees	= \$4,462.50
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$3,037.50
  
2. Prudential is solely liable for:

Member Fees	= \$4,600.00
Total Fees	= \$4,600.00
<u>Less payments</u>	<u>= \$4,600.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00
  
3. Respondents are jointly and severally liable for:

Forum Fees	= \$4,162.50
Total Fees	= \$4,162.50
<u>Less payments</u>	<u>= \$1,950.00</u>
Balance Due NASD Dispute Resolution	= \$2,212.50

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.
---

**ARBITRATION PANEL**

Elliot R. Marvin, Esq.	-	Public Arbitrator, Presiding Chair
Henry Tiffany	-	Public Arbitrator
J. Philip Smith	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Elliot R. Marvin  
Elliot R. Marvin, Esq.  
Public Arbitrator, Presiding Chairperson

March 18, 2004  
Signature Date

Henry Tiffany  
Henry Tiffany  
Public Arbitrator

Signature Date

J. Philip Smith  
J. Philip Smith  
Non-Public Arbitrator

Signature Date

March 19, 2004  
Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

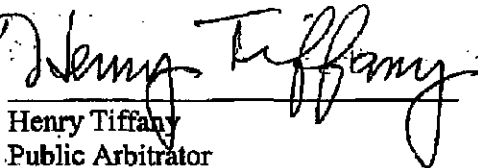
Elliot R. Marvin, Esq.	-	Public Arbitrator, Presiding Chair
Henry Tiffany	-	Public Arbitrator
J. Philip Smith	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

\_\_\_\_\_  
Elliot R. Marvin, Esq.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Henry Tiffany  
Public Arbitrator

  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
J. Philip Smith  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

March 19, 2004  
Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

Elliot R. Marvin, Esq.	-	Public Arbitrator, Presiding Chair
Henry Tiffany	-	Public Arbitrator
J. Philip Smith	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

\_\_\_\_\_  
Elliot R. Marvin, Esq.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Henry Tiffany  
Public Arbitrator

\_\_\_\_\_  
Signature Date

*J. Philip Smith*  
\_\_\_\_\_  
J. Philip Smith  
Non-Public Arbitrator

*3/16/04*  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
March 19, 2004

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)