

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

*Shirley A. Beers, Claimant v. Mark Bussey and Prudential Securities Incorporated, Respondents*

Case Number: 00-03842

Hearing Site: Portland, Oregon

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**REPRESENTATION OF PARTIES**

For Claimant:

Cecil B. Strange, Esq.  
Portland, Oregon

For Respondents:

Charles B. LaChaussee, Esq.  
Prudential Securities Incorporated  
San Francisco, California

**CASE INFORMATION**

Statement of Claim filed on or about: August 31, 2000

First Amended Statement of Claim filed on or about: May 15, 2001

Claimant's Uniform Submission Agreement signed: August 31, 2000

Respondents' Statement of Answer filed on or about: October 30, 2000

Respondents' Amended Statement of Answer filed on or about: July 20, 2001

Respondents' Uniform Submission Agreement was filed on or about: November 1, 2000

**CASE SUMMARY**

Claimant alleged that Respondents were negligent and breached their fiduciary duties and violated anti-fraud provisions of Oregon and federal securities laws by recommending an unsuitable management scheme for her account, by purchasing unsuitable securities in her account, by excessive short term trading in her account, and by failing to supervise and put an end to the financial harm she suffered because of this conduct.

Respondents denied Claimant's allegations of wrongdoing and alleged that the Claimant's Prudential Securities Incorporated ("PSI") account was at all times handled properly and in accordance with applicable rules, regulations and laws. Respondents further alleged that the

allegations raised by Claimant have no factual basis, and the Claimant fails to state any legal basis for recovery in arbitration. Respondents further alleged that Claimant's claim amounts to nothing more than an attempt to belatedly reverse decisions made by the Claimant, and to improperly shift responsibility for her decisions to Respondents. Respondents also asserted affirmative defenses.

### **RELIEF REQUESTED**

Claimant alleged that she has been damaged by more than \$50,000 and seeks to rescind, under Oregon law, the purchase of each security in her account after September 1, 1997 that was sold for a loss. Claimant asserted that this measure of damages includes statutory prejudgment interest and the statute also provides for recovery of her costs and attorney fees.

Respondents requested that the Claimant's claims herein be dismissed in their entirety and PSI requested that costs be awarded in PSI's favor. Additionally, Mr. Bussey requested that the Panel order any reference to this matter be expunged from his permanent record maintained by the Central Registration Depository.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent PSI is solely liable for and shall pay to Claimant the sum of \$25,000.00 in satisfaction of Claimant's claims.
2. All claims by Claimant against Respondent, Mark Bussey, are dismissed.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Mark Bussey's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Bussey must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

4. Each party shall bear its own costs, including attorney's fees.
5. All other relief not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. ("NASD-DR") received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$225.00
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#### **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) that gave rise to the dispute, claim or controversy. In this matter, the member firm, PSI, is a party and the following fees are assessed:

Member Surcharge	= \$1,000.00
Pre-Hearing Process Fee	= \$600.00
<u>Hearing Process Fee</u>	<u>= \$1,500.00</u>
Total Member Fees	= \$3,100.00

#### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A *pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel.* The following fees are assessed:

(1) Pre-hearing conference session with the Panel @ \$750.00/session	= \$750.00
Pre-hearing conference: April 2, 2001 1 session	
(2) Hearing sessions @ \$750.00/session	= \$1,500.00
Hearings: August 10, 2001 2 sessions	
<b>Total Forum Fees</b>	<b>= \$2,250.00</b>

1. The Panel assessed \$1,125.00 of the forum fees to Claimant.
2. The Panel assessed \$1,125.00 of the forum fees to Respondent PSI.

**Administrative Costs**

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and other requests.

The parties did not incur administrative costs.

**Fee Summary**

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$1,125.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$1,350.00
<u>Less Payments</u>	= (975.00)
Balance Due NASD-DR	= \$ 375.00

2. Respondent, PSI, is charged with the following fees and costs:

Member Fees	= \$ 3,100.00
Forum Fees	= \$ 1,125.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$ 4,225.00
<u>Less Payments</u>	= \$(3,100.00)
Balance Due NASD-DR	= \$ 1,125.00

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

**ARBITRATION PANEL**

Edward J. Brunet	-	Public Arbitrator, Presiding Chair
Robert E.L. Bonaparte	-	Public Arbitrator
Martha Jeanne Wilcoxson	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Edward J. Brunet  
Chair, Public Arbitrator

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Signature Date

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Robert E.L. Bonaparte  
Public Arbitrator

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Signature Date

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Martha Jeanne Wilcoxson  
Non-Public Arbitrator

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Signature Date

**Date Served:**

**AUG 24 2001**

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Date of Service

**ARBITRATION PANEL**

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Robert E.L. Bonaparte	-	Public Arbitrator
Martha Jeanne Wilcoxson	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Edward J. Brunet  
Chair, Public Arbitrator

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Signature Date

  
\_\_\_\_\_  
Robert E.L. Bonaparte  
Public Arbitrator

8-28-01  
\_\_\_\_\_  
Signature Date

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Martha Jeanne Wilcoxson  
Non-Public Arbitrator

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Signature Date

Date Served:  
AUG 24 2001

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Date of Service

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Edward J. Brunet  
Chair, Public Arbitrator

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Signature Date

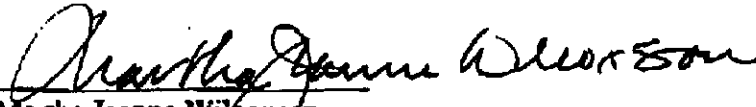
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Robert E.L. Bonaparte  
Public Arbitrator

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Signature Date

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Martha Jeanne Wilcoxson  
Non-Public Arbitrator

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8-20-01  
Signature Date

Date Served:

AUG 24 2001

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Date of Service