

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

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In the Matter of the Arbitration Between

Name of Claimant

Alexis D. Russell

Case No. 00-04284

Name of Respondents

Prudential Securities, Inc.  
Scott A. Cohen

Hearing Site: Washington, D.C.

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**REPRESENTATION OF PARTIES**

Claimant, Alexis D. Russell ("Russell") referred to as "Claimant": John P. Connolly, Esq. and Ford C. Ladd, Esq., Law Offices of John P. Connolly, Alexandria, VA.

Respondents, Prudential Securities, Inc. ("Prudential") and Scott A. Cohen ("Cohen") collectively referred to as "Respondents": Robert A.W. Boraks, Esq., Carolyn Prince, Esq., and Amy Levinson, Esq., Garvey, Schubert & Barer, Washington, D.C.

**CASE INFORMATION**

Statement of Claim filed on: September 22, 2000

Claimant signed the Uniform Submission Agreement: September 13, 2000

Motion to Dismiss and Statement of Answer filed by Respondents on: April 5, 2001

Respondent Prudential did not sign a Uniform Submission Agreement.

Respondent Cohen did not sign a Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action, among others: violation of Sections 10(b) and 20(a) of the Securities and Exchange Act of 1934, and SEC Rule 10b-5; failure to supervise; violation of Florida Securities and Investors Protection Act; violation of the NASD Rules of Fair Practice; breach of contract; constructive fraud; fraud and deceit; and, breach of fiduciary duty. The causes of action relate to the purchase and sale of American Mobil Satellite (SKYC), Corrections Corporation of America (CCA), and Western Digital Corporation (WDC) stock.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: the Statement of Claim fails to state a claim upon which relief may be granted; the Statement of Claim is barred by the relevant statutes of limitations; Claimant is barred from bringing this action on the ground of laches; Claimant has failed to mitigate his damages, if any; Claimant's damages, if any, were proximately caused by his own conduct; the Statement of Claim fails to state a claim upon which an award of punitive damages can be made; Claimant failed to use the requisite due diligence in monitoring, managing and handling the account; Claimant's failure to complain in a timely manner of the trades in question resulted in a ratification of each and every investment within the account; and, Claimant's claims lack specificity.

#### **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$ 49,061.45
Punitive Damages	\$ 50,000.00
Interest	unspecified amount
Attorneys' Fees	unspecified amount
Other Costs	unspecified amount

Respondents requested dismissal of the Statement of Claim, and attorneys' fees and costs of unspecified amounts. At the hearing, Respondent Cohen orally requested expungement of reference to this matter from his registration records maintained by NASD Central Registration Depository.

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

Respondents Prudential and Cohen did not file with NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

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, 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. That Claimant's claim for compensatory damages is denied in its entirety;
2. That Claimant's claim for punitive damages is denied in its entirety;

3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Scott A. Cohen's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Cohen must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
4. That the parties shall bear their respective costs, except as to Fees specifically addressed below; and
5. That any and all claims not specifically addressed herein are denied in their entirety.

#### FEES

Pursuant to the Code, the following fees are assessed:

##### Filing Fees

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

Initial claim filing fee	= \$ 225
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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 that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$ 1,000
Pre-hearing process fee	= \$ 600
Hearing process fee	= \$ 1,500

##### Forum Fees and Assessments

The Panel has the authority to assess 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) Pre-hearing sessions with Panel x \$750	= \$1,500
Pre-hearing conferences: July 11, 2001	1 session
September 28, 2001	1 session
Five (5) Hearing sessions x \$750	= \$ 3,750
Hearing Dates: March 12, 2002	2 sessions
March 13, 2002	2 sessions
Total Forum Fees	= \$ 5,250

The Panel has assessed \$5,250 of the forum fees to Claimant.

**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.

Claimant, copies of audiotapes, 4 tapes at \$15 per tape.	= \$ 60
Respondent Prudential, copies of audiotapes, 8 tapes at \$15 per tape.	= \$ 120

**Fee Summary**

Claimant is assessed the following fees:

Initial Filing Fee	= \$ 225
Forum Fees	= \$ 5,250
Administrative Costs	= \$ 60

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Total Fees	= \$ 5,535
Less payments	= \$ 975

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Balance Due NASD Dispute Resolution, Inc.	= \$ 4,560
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Respondent Prudential is assessed the following fees:

Member Fees	= \$ 3,100
Administrative Costs	= \$ 120

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Total Fees	= \$ 3,220
Less payments	= \$ 3,100

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Balance Due NASD Dispute Resolution, Inc.	= \$ 120
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All balances are due to NASD Dispute Resolution, Inc.

**ARBITRATION PANEL**

John Dapray Muir, Esq.	- Public Arbitrator, Presiding Chairman
Turna R. Lewis, Esq.	- Public Arbitrator, Panelist
Ric M. Edelman, CFS, RFC, CMFC, CRC	- Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

  
John Deputy Muir  
Public Arbitrator, Presiding Chairman

April 25, 2002  
Signature Date

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Terna R. Lewis  
Public Arbitrator, Panelist

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

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Ric M. Edelman  
Non-Public Arbitrator, Panelist

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

4/25/02  
Date of Service (For NASD-Dispute Resolution office use only)

Concurring Arbitrators' Signatures

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John Dapray Muir  
Public Arbitrator, Presiding Chairman

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Signature Date

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*Turna R. Lewis*  
Turna R. Lewis  
Public Arbitrator, Panelist

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*4/24/02*  
Signature Date

\_\_\_\_\_  
Ric M. Edelman  
Non-Public Arbitrator, Panelist

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Signature Date

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NASD Dispute Resolution, Inc.  
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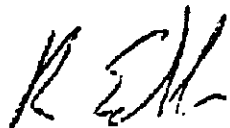
**Concurring Arbitrators' Signatures**

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John Dapray Muir  
Public Arbitrator, Presiding Chairman

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Signature Date

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Turna R. Lewis  
Public Arbitrator, Panelist

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Signature Date

  
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Ric M. Edelman  
Non-Public Arbitrator, Panelist

  
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