

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Names of Claimants

Mark A. Beiler
Mona A. Henri

Case No. 00-04595

Names of Respondents

Prudential Securities, Inc.
Roger Lynn Overby

Hearing Site: Tampa, Florida

REPRESENTATION OF PARTIES

For Mark A. Beiler ("Beiler") and Mona A. Henri ("Henri"), hereinafter collectively referred to as "Claimants": Robert Persante, Esq. of Persante & McCormack, P.A., Clearwater, FL.

For Prudential Securities, Inc. ("Prudential"): Patrick Gaffney, Associate General Counsel, Prudential, New York, NY.

For Roger Lynn Overby ("Overby"): William J. Schifino, Jr., Esq. and Brenda M. Combs, Esq. of Williams Schifino Mangione & Steady, P.A., Tampa, FL.

CASE INFORMATION

Statement of Claim filed on or about: October 16, 2000.

Claimant Beiler signed the Uniform Submission Agreement: July 7, 2000.

Claimant Henri signed the Uniform Submission Agreement: October 11, 2000.

Statement of Answer filed by Respondent Prudential on or about: December 29, 2000.

Respondent Prudential signed the Uniform Submission Agreement: February 5, 2001.

Answer and Defenses of Respondent Roger Overby to Claimants' Statement of Claim filed on or about: January 2, 2001.

Respondent Overby signed the Uniform Submission Agreement: December 28, 2000.

CASE SUMMARY

Claimants asserted the following causes of action: negligence; gross negligence; breach of contract; breach of fiduciary duty; and, failure to supervise. The causes of action relate to the Respondents' failure to timely execute the sale of Claimants' Vision 21, Inc. stock.

Unless specifically admitted in its Answer, Respondent Prudential denied the allegations made in the Statement of Claim and asserted various affirmative defenses including: unclean hands;

failure to state a claim upon which relief can be granted; and, failure to mitigate.

Unless specifically admitted in his Answer, Respondent Overby denied the allegations made in the Statement of Claim and asserted various affirmative defenses including: comparative negligence; lack of participation and control; and, absence of fiduciary relationship.

RELIEF REQUESTED

Claimants requested compensatory damages of \$319,370.00, pre- and post-judgment interest, costs of \$300.00, attorneys' fees, and such other relief as this Panel deemed just and proper.

Respondent Prudential requested dismissal of the Statement of Claim, costs, and attorneys' fees.

Respondent Overby requested dismissal of the Statement of Claim and a finding that he is the prevailing party pursuant to Florida Statutes section 517.211(6).

OTHER ISSUES CONSIDERED AND DECIDED

On or about November 7, 2001, Claimants and Respondent Overby filed a Stipulation of Dismissal With Prejudice (the "Stipulation") with respect to Claimants' claims against Respondent Overby.

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 Stipulation, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent Prudential is liable for failing to supervise Respondent Overby and shall pay to Claimant Beiler compensatory damages in the sum of \$91,160.00, pre-judgment interest specifically excluded.

Respondent Prudential is liable for failing to supervise Respondent Overby and shall pay to Claimant Henri compensatory damages in the sum of \$76,260.00 pre-judgment interest specifically excluded.

Any and all relief requests not specifically addressed herein, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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 = \$300.00

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

Adjournment Fees

Adjournments requested during these proceedings:

No request for adjournment was filed in this matter.

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:

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$450.00

Pre-hearing conference: September 5, 2001 1 session

Two (2) Pre-hearing sessions with Panel x \$1,125.00 = \$2,250.00

Pre-hearing conferences: June 11, 2001 1 session
October 17, 2001 1 session

Four (4) Hearing sessions x \$1,125.00 = \$4,500.00

Hearing Dates: October 30, 2001 2 sessions
October 31, 2001 2 sessions

Total Forum Fees = \$7,200.00

The Panel has assessed \$3,600.00 of the forum fees to Respondent Prudential.

The Panel has assessed \$3,600.00 of the forum fees jointly and severally to Claimants.

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.

No administrative costs were incurred in this matter.

FEE SUMMARY

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$300.00
Forum Fees	= \$3,600.00

Total Fees	= \$3,900.00
Less payments	= \$1,425.00

Balance Due NASD Dispute Resolution, Inc.	= \$2,475.00
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Respondent Prudential be and hereby is solely liable for:

Member Fees	= \$4,600.00
Forum Fees	= \$3,600.00

Total Fees	= \$8,200.00
Less payments	= \$4,600.00

Balance Due NASD Dispute Resolution, Inc.	= \$3,600.00
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All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Donald M. Macdonald	-	Public Arbitrator, Presiding Chair
Richard Lee Ashton, CPA	-	Public Arbitrator
James D. Bruner	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

Donald M. Macdonald
Public Arbitrator, Presiding Chair

Signature Date

/s/

Richard Lee Ashton, CPA
Public Arbitrator

Signature Date

/s/

James D. Bruner
Non-Public Arbitrator

Signature Date

November 30, 2001

Date of Service (For NASD-Dispute Resolution office use only)

without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

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Richard Lee Ashton, CPA	-	Public Arbitrator
James D. Bruner	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Donald M. Macdonald
Public Arbitrator, Presiding Chair

11/28/01
Signature Date



Richard Lee Ashton, CPA
Public Arbitrator

Nov. 29, 2001
Signature Date

James D. Bruner
Non-Public Arbitrator

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)

Richard Lee Ashton, CPA
Public Arbitrator

Signature Date

James D. Bruner
James D. Bruner
Non-Public Arbitrator

11/29/01
Signature Date

Date of Service (For NASD-Dispute Resolution office use only)