

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Bernard Edelstein

Case No. 00-05439

Hearing Site: Boca Raton, Florida

Names of Respondents

Prudential Securities, Inc.

Richard A. Golub

REPRESENTATION OF PARTIES

For Bernard Edelstein ("Edelstein") hereinafter referred to as "Claimant": C. David Durkee, Esq., Angones, Hunter, McClure, Lynch and Williams, Miami, Florida.

For Prudential Securities, Inc. ("Prudential") and Richard A. Golub ("Golub") hereinafter collectively referred to as "Respondents": Frank M. Weber, Vice President/Assistant General Counsel, Prudential Securities, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: December 7, 2000.

Claimant signed the Uniform Submission Agreement: November 29, 2000.

Statement of Answer filed by Respondents on or about: March 21, 2001.

Respondent Prudential signed the Uniform Submission Agreement: March 16, 2001.

Respondent Golub did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following: 1) Respondents breached their fiduciary duty to Claimant; and 2) Respondent Prudential was negligent in failing to properly supervise Respondent Golub. The causes of action relate to Respondents' failure to properly transfer monies to various charities pursuant to the specific instructions of Claimant.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: 1) The claims are barred by the doctrines of waiver and estoppel; 2) Claimant has failed to state a claim upon which relief can be granted; 3) Claimant has not suffered damages as a result of the alleged wrongdoing; 4) Claimant has failed to mitigate his alleged damages; 5) the claims are speculative and conjectural; 6) Claimant authorized and/or ratified the actions of which he now complains; and 7) Claimant's alleged damage is proximately caused by his own acts and/or the acts of

third parties and/or Claimant is contributorily negligent regarding the complained of transactions.

RELIEF REQUESTED

Claimant requested compensatory damages of \$63,000.00, plus interest, attorney's fees and the costs of this proceeding.

Respondents requested that all claims against them be dismissed and such other and further relief as is deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Golub did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the undersigned arbitrators (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, 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 and shall pay to Claimant the sum of \$40,000.00 as compensatory damages plus interest at the legal rate pursuant to Florida Statutes from August 12, 1999 until the date of payment of the Award. The Award is based upon Respondent Prudential's negligence and breach of fiduciary duty.

Respondent Prudential is liable and shall pay to Claimant the sum of \$225.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution, Inc.

The Panel finds Respondent Golub liable for breach of fiduciary duty and negligence but awards no damages against him.

Any and all other requests for relief not specifically addressed herein, including Claimant's request for attorney's fees, are denied.

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 = \$225.00

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. In this matter, the member firm is a party.

Member surcharge = \$1,000.00
Pre-hearing process fee = \$ 600.00
Hearing process fee = \$1,500.00

Adjournment Fees

No adjournments were requested during these proceedings.

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel x \$750.00 = \$1,500.00
Pre-hearing conferences: May 16, 2001 1 session
June 4, 2001 1 session

Two (2) Hearing sessions x \$750.00 = \$1,500.00
Hearing Date: June 14, 2001 2 sessions

Total Forum Fees = \$3,000.00

The panel has assessed the total forum fees of \$3,000.00 to Respondent Prudential.

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 during these proceedings.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee = \$ 225.00

Total Fees = \$ 225.00

Less payments = \$ 225.00

Balance Due NASD Dispute Resolution, Inc. = \$ 0.00

Respondent Prudential be and hereby is solely liable for:

Member Fees = \$3,100.00

Forum Fees = \$3,000.00

Total Fees = \$6,100.00

Less payments = \$3,100.00

Balance Due NASD Dispute Resolution, Inc. = \$3,000.00

All balances are due to NASD Dispute Resolution, Inc. immediately upon receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

<i>Todd M. Saunders, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Edward Aptaker, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Paul G. Soper</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Todd M. Saunders, Esq.
Public Arbitrator, Presiding Chair

Signature Date

/s/
Edward Aptaker, Esq.
Public Arbitrator

Signature Date

Paul G. Soper
Non-Public Arbitrator

Signature Date

July 26, 2001

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

No administrative costs were incurred during these proceedings.

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Public Arbitrator, Presiding Chair

Edward Aptaker, Esq.

-


Public Arbitrator

Paul G. Soper

-

Non-Public Arbitrator

Concurring Arbitrators' Signatures



Todd M. Saunders, Esq.

Public Arbitrator, Presiding Chair

7/24/01

Signature Date

Edward Aptaker, Esq.

Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chair

Edward Aptaker, Esq.

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Public Arbitrator

Paul G. Soper


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Non-Public Arbitrator

Concurring Arbitrators' Signatures

Todd M. Saunders, Esq.
Public Arbitrator, Presiding Chair

Signature Date


Edward Aptaker, Esq.
Public Arbitrator


Signature Date

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Paul W. Soper
Non-Public Arbitrator

7-25-1
Signature Date

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