

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

---

In the Matter of the Arbitration Between

Names of Claimants

Michael Pacifico  
Michael Pacifico IRA dated 11/16/99

Case No. 00-05534

Names of Respondents

Prudential Securities, Inc.  
Alex Muscati, III

Hearing Site: Tampa, Florida

---

**REPRESENTATION OF PARTIES**

For Michael Pacifico ("Pacifico") and Michael Pacifico IRA dated 11/16/99, hereinafter referred to as "Claimants": Delmer C. Gowing III, P.A., Delray Beach, Florida.

For Prudential Securities, Inc. ("Prudential") and Alex Muscati, III ("Muscati"), hereinafter collectively referred to as "Respondents": Gerard J. Kowalski, First Vice President, Associate General Counsel, Prudential.

**CASE INFORMATION**

Statement of Claim filed on or about: December 5, 2000.  
First Amended Statement of Claim filed on or about: December 20, 2000.  
Claimant Michael Pacifico signed the Uniform Submission Agreement: November 8, 2000.  
Claimant Michael Pacifico IRA signed the Uniform Submission Agreement: April 3, 2001.  
Statement of Answer filed by Respondents on or about: February 28, 2001.  
Respondent Prudential signed the Uniform Submission Agreement: February 28, 2001.  
Respondent Muscati signed the Uniform Submission Agreement: February 28, 2001.

**CASE SUMMARY**

Claimants asserted the following causes of action: violation of Florida Statutes Section 517.301; negligence; and, failure to supervise. The causes of action relate to Respondents' recommendation to Claimant Pacifico that he not begin to sell equities and purchase income-producing securities in his accounts as suggested by Claimant Pacifico and Respondent Muscati's representation to Claimant Pacifico that he would have his account over \$1 million.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted that Claimant Pacifico is falsely accusing Respondents of serious misdeeds in a misplaced effort to recover his own personal trading loss.

### **RELIEF REQUESTED**

Claimants requested an award in the amount of \$341,022.00, plus interest at 12% in the amount of \$40,922.00 for a total of \$381,944.00 and attorneys' fees to be awarded by a court of competent jurisdiction.

Respondents requested a denial of Claimants' claims.

### **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, 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:

Claimants' claims are denied in their entirety.

Any and all requests for relief 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	= \$375.00
--------------------------	------------

#### **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	= \$2,000.00
Pre-hearing process fee	= \$600.00
Hearing process fee	= \$3,500.00

**Adjournment Fees**

Adjournments requested during these proceedings:

There were no adjournments 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 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 Pre-hearing session with Panel x \$1,200.00	= \$1,200.00
Pre-hearing conference: July 27, 2001	1 session
Four Hearing sessions x \$1,200.00	= \$4,800.00
Hearing Dates: October 16, 2001	2 sessions
October 17, 2001	2 sessions
<hr/>	
Total Forum Fees	= \$6,000.00

The panel has assessed \$3,000.00 of the forum fees to Claimants, jointly and severally.

The panel has assessed \$3,000.00 of the forum fees to Respondents, jointly and severally.

**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.

There were no administrative costs incurred during these proceedings.

**Fee Summary**

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$375.00
Forum Fees	= \$3,000.00
<hr/>	
Total Fees	= \$3,375.00
Less payments	= \$1,600.00
<hr/>	
Balance Due NASD Dispute Resolution, Inc.	= \$1,775.00

Respondent Prudential be and hereby is solely liable for:

Member Fees = \$6,100.00

---

Total Fees = \$6,100.00

Less payments = \$2,600.00

---

Balance Due NASD Dispute Resolution, Inc. = \$3,500.00

Respondents be and hereby are jointly and severally liable for:

Forum Fees = \$3,000.00

---

Total Fees = \$3,000.00

Less payments = \$0.00

---

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

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

**ARBITRATION PANEL**

*Philip C. Bennett, CPA*

- *Public Arbitrator, Presiding Chair*

*Dennis C. Logue*

- *Public Arbitrator*

*Duncan H. Cameron, II*

- *Non-Public Arbitrator*

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/S/\_\_\_\_\_  
Philip C. Bennett, CPA  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_/S/\_\_\_\_\_  
Dennis C. Logue  
Public Arbitrator

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

\_\_\_\_\_/S/\_\_\_\_\_  
Duncan H. Cameron, II  
Non-Public Arbitrator

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

November 2, 2001

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

NASD Dispute Resolution, Inc.

Arbitration No. 00-05534

Award Page 5

---

Respondent Prudential be and hereby is solely liable for:

Member Fees = \$6,100.00

---

Total Fees = \$6,100.00

Less payments = \$2,600.00

---

Balance Due NASD Dispute Resolution, Inc. = \$3,500.00

Respondents be and hereby are jointly and severally liable for:

Forum Fees = \$3,000.00

---

Total Fees = \$3,000.00

Less payments = \$0.00

---

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

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

**ARBITRATION PANEL**

*Philip C. Bennett, CPA*

- *Public Arbitrator, Presiding Chair*

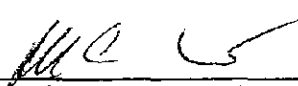
*Dennis C. Logue*

- *Public Arbitrator*

*Duncan H. Cameron, II*

- *Non-Public Arbitrator*

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
Philip C. Bennett, CPA  
Public Arbitrator, Presiding Chair

10/29/01  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Dennis C. Logue  
Public Arbitrator

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

\_\_\_\_\_  
Duncan H. Cameron, II  
Non-Public Arbitrator

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

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

Respondent Prudential be and hereby is solely liable for:

Member Fees = \$6,100.00

---

Total Fees = \$6,100.00

Less payments = \$2,600.00

---

Balance Due NASD Dispute Resolution, Inc. = \$3,500.00

Respondents be and hereby are jointly and severally liable for:

Forum Fees = \$3,000.00

---

Total Fees = \$3,000.00

Less payments = \$0.00

---

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

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

**ARBITRATION PANEL**

*Philip C. Bennett, CPA*

- *Public Arbitrator, Presiding Chair*

*Dennis C. Logue*

- *Public Arbitrator*

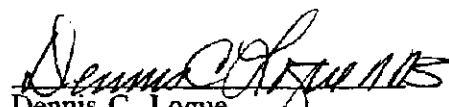
*Duncan H. Cameron, II*

- *Non-Public Arbitrator*

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Philip C. Bennett, CPA  
Public Arbitrator, Presiding Chair

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

  
Dennis C. Logue  
Public Arbitrator

10.30.01  
Signature Date

\_\_\_\_\_  
Duncan H. Cameron, II  
Non-Public Arbitrator

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

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

RECEIVED  
NOV 01 2001  
FL ARBITRATION

Respondent Prudential be and hereby is solely liable for:

Member Fees = \$6,100.00

Total Fees = \$6,100.00

Less payments = \$2,600.00

Balance Due NASD Dispute Resolution, Inc. = \$3,500.00

Respondents be and hereby are jointly and severally liable for:

Forum Fees = \$3,000.00

Total Fees = \$3,000.00

Less payments = \$0.00

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

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

ARBITRATION PANEL

*Philip C. Bennett, CPA*

- *Public Arbitrator, Presiding Chair*

*Dennis C. Logue*

- *Public Arbitrator*

*Duncan H. Cameron, II*

- *Non-Public Arbitrator*

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Philip C. Bennett, CPA  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
Dennis C. Logue  
Public Arbitrator

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

*Duncan H. Cameron II*  
\_\_\_\_\_  
Duncan H. Cameron, II  
Non-Public Arbitrator

*10/30/01*  
\_\_\_\_\_  
Signature Date

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