

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Prudential Securities, Inc., (Claimant) v. Salomon Smith Barney, Inc., (Respondent)

Case Number: 01-00766

Hearing Site: Chicago, Illinois

REPRESENTATION OF PARTIES

Claimant Prudential Securities, Inc. ("Prudential"): James M. Carlson, Esq., Ungaretti & Harris, Chicago, Illinois.

Respondent Salomon Smith Barney, Inc. ("Salomon Smith Barney"): Nicholas Berberian, Esq., Neal Gerber & Eisenberg, Chicago, Illinois

CASE INFORMATION

- Application for an Immediate Injunctive Order on or about: February 15, 2001
- Claimant Prudential signed the Uniform Submission Agreement: February 14, 2001
- Response to Application for an Immediate Injunctive Order filed by Respondent Salomon Smith Barney on or about: February 21, 2001
- Respondent Salomon Smith Barney signed the Uniform Submission Agreement: February 20, 2001
- Motion to Dismiss as a Matter of Law filed by Respondent Salomon Smith Barney on or about: March 09, 2001
- Claimant's Response to Motion to Dismiss by Salomon Smith Barney filed on or about: March 30, 2001
- Reply in Support of Motion to Dismiss as a Matter of Law filed by Respondent Salomon Smith Barney on or about: April 26, 2001

CASE SUMMARY

Claimant Prudential Securities, Inc. asserted the following causes of action: Unfair Competition, Unjust Enrichment, and Raiding.

Unless specifically admitted in its Answer, Respondents Salomon Smith Barney, Inc. denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimant Prudential Securities, Inc. requested:

Compensatory Damages	unspecified amount
Attorneys' Fees	unspecified amount
Other Costs	unspecified amount
Other Monetary/Non-Monetary Relief if any:	Injunctive Relief

Respondent Salomon Smith Barney, Inc. requested:

Other Monetary/Non-Monetary Relief if any:	dismissal of claim
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OTHER ISSUES CONSIDERED AND DECIDED

After considering Claimant Prudential's Application for Immediate Injunctive Order, Respondent Salomon Smith Barney's Response, and arguments presented during the February 23, 2001 pre-hearing conference, the 10335(d)(1) arbitrator, Alan Farnell, denied Prudential Securities' Application for Immediate Injunctive Order.

ORDER

After considering the pleadings, the submissions relating to Respondent Salomon Smith Barney's Motion to Dismiss, and the oral argument presented during the pre-hearing conference on Respondent's Motion to Dismiss, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Any and all claims asserted by Prudential Securities, Inc. are dismissed with prejudice.
2. Parties shall bear their own costs, including attorney's fees.
3. *Any and all relief not specifically addressed herein is denied and dismissed with prejudice.*

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	= \$500.00
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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 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	= \$1,200.00
<u>Pre-hearing process fee</u>	= \$ 600.00
Total Member Fees	= \$1,800.00

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:

One (1) Immediate Injunctive Order Pre-Hearing with a single arbitrator x \$450.00
= \$ 450.00

Pre-hearing conference: February 23, 2001 1 session

Two (2) Pre-hearing sessions with Panel x \$1,000.00 = \$2,000.00

Pre-hearing conferences: July 11, 2001 1 session

August 17, 2001 1 session

Total Forum Fees = \$2,450.00

The panel has assessed \$2,450.00 of the forum fees to Claimant Prudential.

Fee Summary

1. Claimant Prudential Securities, Inc. is solely liable for:

Initial Filing Fee	= \$ 500.00
Injunctive Fee	= \$ 2,500.00
Member Fees	= \$ 1,800.00
<u>Forum Fees</u>	= \$ 2,450.00
Total Fees	= \$ 7,250.00
<u>Less payments</u>	= \$ 5,800.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,450.00

2. Respondent Salomon Smith Barney, Inc. is solely liable for:

<u>Member Fees</u>	= \$ 1,800.00
Total Fees	= \$ 1,800.00
<u>Less payments</u>	= \$ 1,800.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Alan S. Farnell, Esq.	-	Public Arbitrator, Presiding Chair
Hon. Robert J. Downing	-	Public Arbitrator
Peter A. Maren, J.D.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Alan S. Farnell, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Hon. Robert J. Downing
Public Arbitrator

Signature Date

Peter A. Maren, J.D.
Non-Public Arbitrator

Signature Date

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

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Alan S. Farnell, Esq.
Public Arbitrator, Presiding Chair

8/30/01

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