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**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Marla Roberson Wierzel

Case Number: 01-02850

Names of the Respondents  
Prudential Securities Incorporated  
Bret Tuckman

Hearing Site: Boca Raton, Florida

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**REPRESENTATION OF PARTIES**

For Marla Roberson Wierzel, hereinafter referred to as "Claimant": Delmer C. Gowing III, Esq., Delray Beach, Florida until his withdrawal as counsel on or about September 24, 2002. Thereafter, Alan J. Foxman, Esq., The Law Offices of Alan J. Foxman, Boca Raton, Florida appeared as counsel for Claimant.

For Respondents Prudential Securities Incorporated ("PSI") and Bret Tuckman ("Tuckman"), hereinafter collectively referred to as "Respondents": Bradford D. Kaufman, Esq. and Joseph C. Coates, III, Esq., Greenberg Traurig, P.A., West Palm Beach, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: May 24, 2001.

Claimant signed the Uniform Submission Agreement: July 16, 2001.

Statement of Answer filed by Respondents PSI and Tuckman on or about: August 21, 2001.

Respondent PSI signed the Uniform Submission Agreement: July 20, 2001.

Respondent Tuckman signed the Uniform Submission Agreement: July 20, 2001.

**CASE SUMMARY**

Claimant asserted the following causes of action: 1) unsuitability; 2) failure to supervise; 3) misrepresentation by omission; 4) negligence, and; 5) breach of fiduciary duty. The causes of action relate to the purchase of various unspecified stocks in Claimant's account.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$175,851.00, punitive damages in the amount of \$500,000.00, interest, attorney's fees and costs.

Respondents requested that the Statement of Claim be dismissed in its entirety, an expungement of all references to this matter from the Central Registration Depository (the "CRD") records of Respondent Tuckman, costs, attorney's fees and other and further relief as the Panel deemed appropriate.

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

On or about December 18, 2002, Claimant informed NASD Dispute Resolution that the parties had reached an amicable settlement of this matter and filed a Notice of Dismissal With Prejudice, as to Respondents. In addition, the parties informed NASD Dispute Resolution they would be submitting a request for expungement of this matter from the CRD records of Respondent Tuckman.

On or about June 5, 2003, the parties submitted a Stipulated Motion for Award Directing Expungement of the CRD records of Respondent Tuckman. On or about June 16, 2003, the Panel issued its Order Directing Entry of a Stipulated Award expunging this matter as to Respondent Tuckman.

The parties have agreed that the Stipulated Award in this matter may be entered in counterpart copies or that a signed handwritten Stipulated Award may be entered.

### **AWARD**

After considering the pleadings and the proposed Stipulated Motion for Award Directing Expungement, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Tuckman's public and non-public registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Tuckman must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

#### **Filing Fees**

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$375.00
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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. Accordingly, PSI is a party to this dispute and was a member of the NASD at the time the following fees were assessed:

Member surcharge	= \$2,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$3,500.00

**Adjournment Fees**

No requests for adjournments were filed in this matter.

**Injunctive Relief Fees**

No injunctive relief fees were incurred during this proceeding.

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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) Pre-hearing session with Panel @ \$1,200.00	= \$1,200.00
<u>Pre-hearing conference: January 29, 2002 1 session</u>	
Total Forum Fees	= \$1,200.00

The Panel has assessed \$600.00 of the forum fees to Claimant.

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

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	= \$ 600.00
Total Fees	= \$ 975.00
<u>Less payments</u>	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent PSI is solely liable for:

<u>Member Fees</u>	= \$ 6,100.00
Total Fees	= \$ 6,100.00
<u>Less payments</u>	= \$ 6,100.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents PSI and Tuckman are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 600.00
Total Fees	= \$ 600.00

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Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 600.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Michael Lau	-	Public Arbitrator, Presiding Chairperson
Stuart Alan, MBA	-	Public Arbitrator
Sydney I. Josepher	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Michael Lau  
Public Arbitrator, Presiding Chairperson

7/17/03  
Signature Date

/s/  
Stuart Alan, MBA  
Public Arbitrator

7/7/03  
Signature Date

/s/  
Sydney I. Josepher  
Non-Public Arbitrator

7/16/03  
Signature Date

7/18/03  
Date of Service (For NASD Dispute Resolution office use only)

Jul 17, 2003 10:27AM NASD

No. 6477 P. 4/4

**NASD**

Arbitration No. 01-02850

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<u>Less payments</u>	= \$ 0.00
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 600.00</b>

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**ARBITRATION PANEL***Michael Lau**Stuart Alan, MBA**Sydney I. Josepher**Public Arbitrator, Presiding Chairperson**Public Arbitrator**Non-Public Arbitrator***Concurring Arbitrators' Signatures***Michael Lau**Public Arbitrator, Presiding Chairperson*

<u>7/17/2003</u>
Signature Date

*Stuart Alan, MBA**Public Arbitrator*

_____ Signature Date
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*Sydney I. Josepher**Non-Public Arbitrator*

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

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<i>Stuart Alan, MBA</i>	-	<i>Public Arbitrator</i>
<i>Sydney I. Josepher</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

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Public Arbitrator, Presiding Chairperson

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Signature Date

  
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Stuart Alan, MBA  
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Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 600.00

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**ARBITRATION PANEL**

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Stuart Alan, MBA	-	Public Arbitrator
Sydney I. Josepher	-	Non-Public Arbitrator

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