

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Barry A. Morguelan, M.D., Individually and as Trustee of the Dr. Barry Morguelan MPP/PS Plan, Claimants v. Prudential Equity Group, LLC f/k/a Prudential Securities Incorporated, Deepen A. Modi, and Kendall D. Higginbotham, Respondents

Case Number: 02-05036

Hearing Site: Los Angeles, California

Nature of the Dispute: Customers v. Member and Associated Persons

REPRESENTATION OF PARTIES

For Claimants:

David L. Casterline, Esq.
The Law Offices of David L. Casterline
Hermosa Beach, California

For Respondents Prudential Equity Group, LLC
f/k/a Prudential Securities Incorporated ("Prudential")
and Deepen A. Modi:

Terry Ross, Esq.
Tamara LaSance Fishbach, Esq.
Keesal, Young & Logan
Long Beach, California

For Respondent Kendall D. Higginbotham:

Marc S. Dobin, Esq.
Dobin & Jenks, LLP
Jupiter, Florida

CASE INFORMATION

Claimants' Joint Statement of Claim and Motion to Consolidate filed: August 26, 2002

Claimants' Joint Uniform Submission Agreement signed: July 31, 2002

Joint Statement of Answer filed by Respondents Prudential and Deepen A. Modi:
November 1, 2002

Statement of Answer and Motion to Dismiss filed by Respondent Kendall D. Higginbotham:
November 1, 2002

Respondent Prudential's Uniform Submission Agreement signed: not dated

Respondent Deepen A. Modi's Uniform Submission Agreement signed: not dated

Respondent Kendall D. Higginbotham's Uniform Submission Agreement signed:
September 25, 2002

CASE SUMMARY

Claimants alleged violation of NASD rules of conduct, unsuitability, violation of antifraud provisions of federal and state securities laws and common law, failure to supervise, breach of contract, negligence, and breach of fiduciary duty, involving a Pension Plan fund.

Respondents Prudential and Deepen A. Modi denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim and asserted various affirmative defenses.

Respondent Kendall D. Higginbotham denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim and adopted the affirmative defenses asserted in Respondents Prudential and Deepen A. Modi's Answer.

RELIEF REQUESTED

Claimants requested \$300,000.00 in compensatory damages, unspecified punitive damages, prejudgment interest at the legal rate from December 31, 2001, and costs, including attorney's fees, expert witness fees, and forum fees.

Respondents Prudential and Deepen A. Modi requested dismissal of the Claimants' Statement of Claim in its entirety.

Respondent Kendall D. Higginbotham requested dismissal of the Claimants' Statement of Claim in its entirety and expungement of any reference to this claim from his CRD record.

OTHER ISSUES CONSIDERED AND DECIDED

On October 28, 2002, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On February 3, 2002, Respondents Prudential and Deepen A. Modi's counsel signed a Waiver Agreement on their behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On May 20, 2003, Respondent Kendall D. Higginbotham's counsel signed a Waiver Agreement on his behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On May 21, 2003, Respondent Kendall D. Higginbotham signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

In the Statement of Claim, Claimants included a motion to consolidate this arbitration with NASD Arbitration No. 02-02794. On May 8, 2003, Respondents Prudential and Deepen A. Modi filed an Opposition to Claimants' Motion to Consolidate. On May 9, 2003, Respondent Kendall D. Higginbotham joined in Respondents Prudential and Deepen A. Modi's Opposition to Claimants' motion. On May 14, 2003, Claimants filed a Reply to Respondents' Opposition to Claimants' Motion to Consolidate.

In his Statement of Answer, Respondent Kendal D. Higginbotham included a Motion to Dismiss. On May 14, 2003, Claimants filed an Opposition to Respondent Kendal D. Higginbotham's Motion to Dismiss.

On May 28, 2003, the Panel held a telephonic pre-hearing conference to hear oral argument on Claimants' Motion to Consolidate and Respondent Kendal D. Higginbotham's Motion to Dismiss. After due deliberation, the Panel issued an Order on May 28, 2003 denying Claimants' Motion to Consolidate and Respondent Kendal D. Higginbotham's Motion to Dismiss.

On May 14, 2004, Claimants dismissed with prejudice Respondent Kendall D. Higginbotham and agreed to an expungement of the record for purposes of Mr. Higginbotham's Form U-4.

On September 16, 2005, Claimants dismissed with prejudice Respondents Prudential and Deepen A. Modi.

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 and the parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants and Respondents have entered into a confidential settlement agreement.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Kendall D. Higginbotham's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Kendall D. Higginbotham must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. The parties shall bear their respective costs, including attorney's fees.
4. All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Prudential is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,750.00
Total Member Fees	= \$ 5,200.00

Adjournment Fees

The following adjournment fees are assessed:

March 15-19, 2004 hearing adjournment requested by all parties = \$ 1,125.00

1. The Panel assessed \$562.50 of the adjournment fees jointly and severally to Claimants.
2. The Panel assessed \$562.50 of the adjournment fees jointly and severally to all Respondents.

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

1 Pre-hearing conference session with a single arbitrator @ \$ 450.00/session = \$ 450.00
Pre-hearing conference: July 23, 2003 1 session

4 Pre-hearing conference sessions with the Panel @ \$1,125.00/session = \$ 4,500.00
Pre-hearing conferences: April 11, 2003 1 session
May 28, 2003 1 session
March 29, 2004 1 session
December 6, 2004 1 session

Total Forum Fees = \$ 4,950.00

1. The Panel assessed \$1,237.50 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$1,237.50 of the forum fees to Respondent Prudential.
3. The Panel assessed \$675.00 of the forum fees to Respondent Deepen A. Modi.
4. The Panel assessed \$675.00 of the forum fees to Respondent Kendall D. Higginbotham.
5. The Panel waived \$1,125.00 of the forum fees.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 562.50
<u>Forum Fees</u>	= \$ 1,237.50
Total Fees	= \$ 2,100.00
<u>Less payments</u>	= \$(1,425.00)
Balance Due NASD Dispute Resolution	= \$ 675.00

2. Respondent Prudential is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	= \$ 1,237.50
Total Fees	= \$ 6,437.50
<u>Less payments</u>	= \$(5,200.00)
Balance Due NASD Dispute Resolution	= \$ 1,237.50

3. Respondent Deepen A. Modi is charged with the following fees and costs:

Forum Fees	= \$ 675.00
<u>Less payments</u>	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$ 675.00

4. Respondent Kendall D. Higginbotham is charged with the following fees and costs:

Forum Fees	= \$ 675.00
<u>Less payments</u>	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$ 675.00

5. Respondents are charged jointly and severally with the following fees and costs:

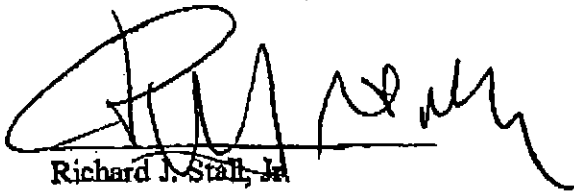
Adjournment Fee	= \$ 562.50
<u>Less payments</u>	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$ 562.50

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

ARBITRATION PANEL

Richard J. Stall, Jr.	-	Public Arbitrator, Presiding Chair
Thomas S. Kidde	-	Public Arbitrator
Michael G. Clark	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Richard J. Stall, Jr.
Chair, Public Arbitrator

Dec 1, 2005
Signature Date

Thomas S. Kidde
Public Arbitrator

Signature Date

Michael G. Clark
Non-Public Arbitrator

Signature Date

12/5/05
Date of Service


ARBITRATION PANEL

Richard J. Stall, Jr.	-	Public Arbitrator, Presiding Chair
Thomas S. Kidde	-	Public Arbitrator
Michael G. Clark	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Richard J. Stall, Jr.
Chair, Public Arbitrator

Signature Date


Thomas S. Kidde
Public Arbitrator

Dec. 5, 2005
Signature Date

Michael G. Clark
Non-Public Arbitrator

Signature Date

12/5/05
Date of Service

ARBITRATION PANEL

Richard J. Stall, Jr.	-	Public Arbitrator, Presiding Chair
Thomas S. Kidde	-	Public Arbitrator
Michael G. Clark	-	Non-Public Arbitrator

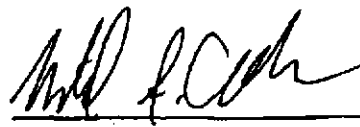
Concurring Arbitrators' Signatures

Richard J. Stall, Jr.
Chair, Public Arbitrator

Signature Date

Thomas S. Kidde
Public Arbitrator

Signature Date



Michael G. Clark
Non-Public Arbitrator

December 5, 2005
Signature Date

12/5/05
Date of Service