

**STIPULATED AWARD  
NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration between  
Michael and Rosemary Casseta v. Prudential Securities Incorporated and David Jainchill,

NASD Arbitration No. 02-05462

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**REPRESENTATION OF PARTIES**

For Claimants, Michael Cassetta and Rosemary Cassetta: Howard Silverman, BrokerArb,  
Bridgewater, CT

For Respondents, Prudential Equity Group, Inc. (formerly known as Prudential Securities, Inc.)  
("PSI"), and David Jainchill ("Jainchill"), hereinafter collectively referred to as "Respondents":  
Christopher N. Lewis, Esq., Kirkpatrick & Lockhart LLP, New York, NY

**CASE INFORMATION**

Original Statement of Claim Filed: August 28, 2002

Respondents Statement of Answer filed: January 14, 2003

**CASE SUMMARY**

Claimants alleged losses to their accounts due to the recommendation of their broker Jainchill to buy Excite@Home stock on margin. Claimants alleged Excite@Home was not consistent with their investment profile. Claimants alleged claims of: unsuitability, failure to follow customer's directives and/or objectives, misrepresentation and deceit, failure to supervise, breach of implied covenants of good faith and fair dealing, negligence, breach of contract and breach of fiduciary duty.

Respondents alleged that Respondent Jainchill is a broker with forty-three years of experience and does not have a single complaint on his record. Respondents alleged that it was Claimant Michael Cassetta, who has himself been employed as a stockbroker, that approached Jainchill regarding the purchase of the Excite@Home stock and made the unsolicited decision to buy it. Respondents further alleged that the Claimants incurred margin debt from the large amount of cash they withdrew from their accounts unrelated to the purchase at issue and that the purchase of the Excite@Home stock actually initially decreased Claimants' margin debt because it was purchased with the proceeds of the sale of another stock and not on margin. Respondents denied all allegations of wrongdoing and alleged that the majority of Claimants' claims were time

barred by the statute of limitations or based on federal securities laws for which there is no private right of action.

### **RELIEF REQUESTED**

Claimants requested: Actual damages in the amount of \$90,300.

Respondents requested: An award dismissing the Claim in its entirety with prejudice and assessing all costs, including attorneys fees, against Claimants.

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

All parties to the Arbitration have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

All parties to the Arbitration agreed to dismiss all claims against each other prior to the entry of this Stipulated Award.

The parties have entered into a settlement agreement pursuant to which the parties have stipulated to dismiss this proceeding.

### **AWARD**

After considering the stipulation of the parties, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. All claims are hereby dismissed with prejudice;
2. Respondents' counterclaim is denied;
3. Each party shall bear its own costs, including forum fees and attorney's fees;
4. Since no intentional wrongdoing or negligence by Jainchill was revealed during discovery, the Panel orders the expungement of all reference to the instant arbitration from the registration records maintained by the NASD Central Registration Depository ("CRD") of Respondent Jainchill, with the understanding that said Respondent must obtain confirmation of this Award from a court of competent jurisdiction before the CRD will expunge these records;
5. All other relief not expressly granted is denied.

## **FEES**

Pursuant to the Code, the following fees are assessed:

NASD Dispute Resolution 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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Prudential Securities, Inc. is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

## **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:

1. The Panel has assessed \$1,500.00 of the forum fees against the Claimant.
2. The Panel has assessed \$750.00 of the forum fees against Respondent Prudential.
3. The Panel has assessed \$750.00 of the forum fees against the Respondent Jainchill.

## **Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	<u>= \$1,500.00</u>
Total Fees	= \$1,725.00
<u>Less payments</u>	<u>= \$ 975.00</u>
Balance Due NASD Dispute Resolution	= \$ 750.00

2. Prudential is solely liable for:

Member Fees	= \$5,200.00
<u>Forum Fees</u>	<u>= \$ 750.00</u>
Total Fees	= \$5,950.00
<u>Less payments</u>	<u>= \$5,050.00</u>
Balance Due NASD Dispute Resolution	= \$ 900.00

3. Jainchill is solely liable for:


<u>Forum Fees</u>	= \$ 750.00
<u>Total Fees</u>	= \$ 750.00
<u>Less payments</u>	= \$ 750.00
Balance Due NASD Dispute Resolution	= \$ .00

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

STIPULATED AND AGREED:

  
Michael Cassetta, Claimant

  
Rosemary Cassetta, Claimant

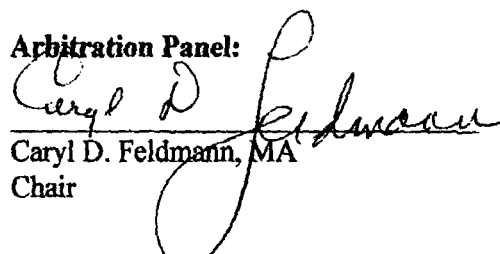
  
Christopher N. Lewis, Esq.  
Kirkpatrick & Lockhart LLP  
599 Lexington Avenue  
New York, NY 10022-6030  
Attorney for Respondents

**STIPULATED AND AGREED:**

\_\_\_\_\_  
Michael Cassetta, Claimant

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Rosemary Cassetta, Claimant

**Arbitration Panel:**

  
\_\_\_\_\_  
Caryl D. Feldmann, MA  
Chair

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Thomas M. Crawford, Esq.  
Public Arbitrator

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David Pine  
Non-Public Arbitrator

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Christopher N. Lewis, Esq.  
Kirkpatrick & Lockhart LLP  
599 Lexington Avenue  
New York, NY 10022-6030  
Attorney for Respondents

March 17 - 2004  
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Signature Date

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Signature Date

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Signature Date

**STIPULATED AND AGREED:**

\_\_\_\_\_  
Michael Cassetta, Claimant

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Rosemary Cassetta, Claimant

**Arbitration Panel:**

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Caryl D. Feldmann, MA  
Chair

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Ann-Marie M. Kunzler  
Public Arbitrator

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John W. Engelskirger  
Non-Public Arbitrator

\_\_\_\_\_  
Christopher N. Lewis, Esq.  
Kirkpatrick & Lockhart LLP  
599 Lexington Avenue  
New York, NY 10022-6030  
Attorney for Respondents

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Signature Date

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3/30/04  
Signature Date

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Signature Date