

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

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In the Matter of the Arbitration Between:

Names of the Claimants

Gregory P. Hopkins, Individually  
Gregory P. Hopkins IRA  
Hopkins Enterprises, Inc.  
Dinny F. Hopkins IRA  
Gregory D. Hopkins IRA  
Tiffany J. Hopkins IRA  
Brittney E. Hopkins IRA

Case Number: 02-07017

Names of the Respondents

Prudential Securities, Inc.  
Marc Gendell

Hearing Site: Atlanta, Georgia

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Nature of the Dispute: Customer vs. Member and Associated Person.

**REPRESENTATION OF PARTIES**

For Gregory P. Hopkins, Individually, Gregory P. Hopkins IRA, Hopkins Enterprises, Inc., Dinny F. Hopkins IRA, Gregory D. Hopkins IRA, Tiffany J. Hopkins IRA and Brittney E. Hopkins IRA, hereinafter collectively referred to as "Claimants": Nick A. Dodys, Esq., Atlanta, Georgia.

For Prudential Securities, Inc. ("Prudential") and Marc Gendell ("Gendell"), hereinafter collectively referred to as "Respondents": Keith R. Dutill, Esq., Stradley, Ronon, Stevens & Young, LLP, Malvern, Pennsylvania.

**CASE INFORMATION**

Statement of Claim filed on or about: November 13, 2001.

Claimants Gregory P. Hopkins, Individually, Gregory P. Hopkins IRA and Hopkins Enterprises, Inc. signed the Uniform Submission Agreement: December 8, 2002.

Claimant Gregory D. Hopkins IRA signed the Uniform Submission Agreement: December 8, 2002.

Claimant Tiffany J. Hopkins, through her Power of Attorney Gregory P. Hopkins, signed the Uniform Submission Agreement: December 8, 2002.

Claimant Brittney E. Hopkins IRA signed the Uniform Submission Agreement: December 8, 2002.

Claimant Dinny F. Hopkins IRA signed the Uniform Submission Agreement: December 9, 2002.

Statement of Answer filed by Respondents on or about: February 5, 2003.

Respondents did not file executed Uniform Submission Agreements.

**CASE SUMMARY**

Claimants asserted the following causes of action: unauthorized trading; common law fraud;

breach of contract; failure to deal in good faith; violation of NASD Rule 2310, Failure to Deal in Good Faith With Customers; violation of the Georgia Unfair Business Practices Act; breach of fiduciary duty; failure to supervise, violation of NASD Rule 3010; and, negligence in disregarding clients' direct orders, investment requirements and requests. The causes of action relate to Claimants' investments in shares of stock of Oak T, Audio Code, Encompass Service Group and Yahoo.

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

### **RELIEF REQUESTED**

Claimants requested that they be awarded the sum of \$400,000.00; all applicable interest that would have been earned on this amount had the requests, needs and goals of the client been originally met plus proper interest paid to the account; and, all fair and adequate attorneys' fees and costs of this litigation.

Respondents requested that the Statement of Claim be completely dismissed and denied with prejudice and that all costs be assessed against Claimants.

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

Respondents did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

On or about October 24, 2003, Claimants informed NASD Dispute Resolution that the matter had been settled. Thereafter, on or about October 30, 2003, the parties submitted to NASD Dispute Resolution a proposed Stipulated Award for execution by the arbitration panel.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

### **AWARD**

After considering the pleadings and the proposed Stipulated Award, the undersigned arbitrators (the "Panel") have 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 Gendell's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Gendell must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Each party shall bear its own costs and expenses.

Any and all requests for relief not specifically addressed herein are denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$300.00
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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(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	= \$1,700.00
Pre-hearing process fee	= \$750.00
Hearing process fee	= \$2,750.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred in this matter.

#### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

#### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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 the Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: May 12, 2003 1 session	

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Total Forum Fees	= \$1,125.00
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Pursuant to the agreement of the parties, the Panel has assessed the total forum fees of \$1,125.00

to Claimants, jointly and severally.

**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 are 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 in this matter.

**FEE SUMMARY**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$300.00
Forum Fees	= \$1,125.00
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Total Fees	= \$1,425.00
Less payments	= \$1,425.00
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Balance Due NASD Dispute Resolution	= \$0.00

Respondent Prudential is solely liable for:

Member Fees	= \$5,200.00
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Total Fees	= \$5,200.00
Less payments	= \$5,200.00
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Balance Due NASD Dispute Resolution	= \$0.00

**ARBITRATION PANEL**

William Austin Dealy, Jr.	-	Public Arbitrator, Presiding Chair
James H. McAvoy, Sr.	-	Public Arbitrator
Joe W. Gladden, CPA	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/S/\_\_\_\_\_  
William Austin Dealy, Jr.  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_/S/\_\_\_\_\_  
James H. McAvoy, Sr.  
Public Arbitrator

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

\_\_\_\_\_/S/\_\_\_\_\_  
Joe W. Gladden, CPA  
Non-Public Arbitrator

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

November 24, 2003  
Date of Service (For NASD Dispute Resolution office use only)

to Claimants, jointly and severally.

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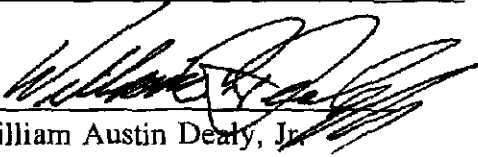
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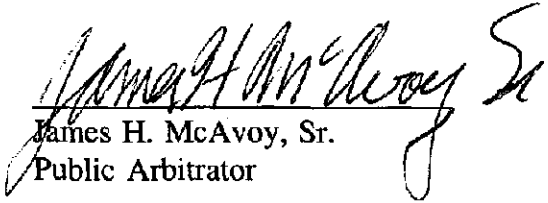
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**Concurring Arbitrators' Signatures**

  
William Austin Dealy, Jr.  
Public Arbitrator, Presiding Chair

  
Signature Date

  
James H. McAvoy, Sr.  
Public Arbitrator

11/8/03  
Signature Date

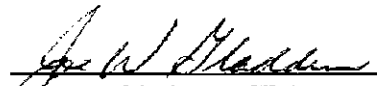
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