
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Eiko Hiramoto Smedy

Case Number: 03-00353

Names of the Respondents
Prudential Securities, Inc.
Alex Muscati, III
Kenneth Charles Quintana

Hearing Site: Little Rock, Arkansas

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

REPRESENTATION OF PARTIES

For Eiko Hiramoto Smedy, hereinafter referred to as "Claimant": Stanley T. Padgett, Esq., Morgan, Padgett & Associates, P.A., Tampa, Florida.

For Respondents Prudential Securities, Inc. ("Prudential") and Alex Muscati, III ("Muscati"): Martin Hunger, Vice President, Corporate Counsel, Prudential Equity Group Law Department, New York, New York, and Brian D. Elias, Esq., Fowler, White & Burnett, P.A., Miami, Florida.

For Respondent Kenneth Charles Quintana ("Quintana"): Craig D. Stein, Esq., Stein, Rosenberg & Stein, P.A., Fort Lauderdale, Florida.

CASE INFORMATION

Statement of Claim filed on or about: January 13, 2003.
Claimant signed the Uniform Submission Agreement: January 8, 2003.
Statement of Answer filed by Respondent Quintana on or about: April 25, 2003.
Respondent Quintana signed the Uniform Submission Agreement: April 6, 2003.
Statement of Answer filed by Respondents Prudential and Muscati on or about: April 28, 2003.
Respondent Muscati signed the Uniform Submission Agreement: March 27, 2003.
Respondent Prudential signed the Uniform Submission Agreement: April 28, 2003.

CASE SUMMARY

Claimant alleged that Respondents defrauded Claimant by engaging in unsuitable and unauthorized transactions and over-concentrating Claimant's accounts in unsuitable technology stocks, and that Claimant sustained substantial losses in her accounts as a direct result of Respondents' actions. The causes of action relate to the purchase in Claimant's accounts of various technology stocks, including the following: Openroute Networks, Inc.; JDS Uniphase; Netrix Corp.; Motorola; Vishay Intertechnology, Inc.; Qualcomm; Cabletron; Bea Systems; Ciena Corp.; GE; and Oracle.

Unless specifically admitted in their Answers, Respondents denied the allegations made in the Statement of Claim and asserted various defenses. In addition, Respondents contended that any losses incurred by Claimant resulted from Claimant's investment decisions.

RELIEF REQUESTED

Claimant requested compensatory damages of at least \$65,521.18, attorneys' fees, costs, and pre-award statutory interest.

Respondent Quintana requested that the Panel dismiss the Statement of Claim, with prejudice, in its entirety, assess all costs of this arbitration against Claimant, and grant Respondent Quintana reimbursement of his costs and expenses, including attorneys' fees, and any other and further relief that the Panel deemed just and proper, including expungement of this claim from Respondent Quintana's NASD Central Registration Depository ("CRD") record.

Respondents Prudential and Muscati requested that Claimant take nothing by way of the Statement of Claim, the Panel order expungement of this claim from Respondent Muscati's NASD CRD record, and the Panel award Respondents Prudential and Muscati their costs and such other and further relief as deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about June 30, 2004, the parties filed with NASD Dispute Resolution a notice of settlement.

On or about August 24, 2004, the parties filed with NASD Dispute Resolution a proposed Stipulated Award for review and approval by the Panel, which included a request for expungement of all references to this matter from Respondent Muscati's NASD CRD records.

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

AWARD

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

1. The Statement of Claim is dismissed in its entirety, without any finding of fault or liability on the part of Respondents, Claimant or any other person or entity.
2. Claimant determined that Respondent Muscati, who serviced Claimant's account, had not done anything wrong, had not committed any of the wrongful acts alleged in the Statement of Claim and was not liable to Claimant under any of the claims advanced in the Statement of Claim. At the joint request of the parties, the Panel recommends that all references to the above-captioned arbitration be expunged from Respondent Muscati's registration records maintained by the NASD CRD, with the understanding that

pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Muscati must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

3. Pursuant to NASD Rule 2130, this Panel finds that the claim, allegation or information is factually impossible, clearly erroneous, or false. The expungement relief and accompanying findings on which it is based are meritorious; and the expungement would have no material adverse effect on investor protection, the integrity of the CRD system, or regulatory requirements.
4. Each party shall bear their respective costs, including attorneys' fees.
5. All other requests for relief that are not addressed specifically in this Stipulated Award are denied, with prejudice.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 225.00
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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, Respondent Prudential is a member firm and a party:

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$1,700.00</u>
Total Member Fees	= \$3,550.00

Adjournment Fees

No adjournments were requested 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 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 the Panel @ \$750.00/session	= \$ 750.00
Pre-hearing conference: October 30, 2003 1 session	

One (1) Pre-hearing session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: February 6, 2003 1 session	

Total Forum Fees	= \$1,200.00
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Pursuant to the agreement of the parties, the Panel has assessed forum fees as follows:

\$600.00 to Claimant

\$600.00 to Respondent Prudential

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	= \$ 225.00
Forum Fees	= \$ 600.00
<u>Retained Hearing Session Deposit pursuant to Rule 10332(f) of the Code</u>	<u>= \$ 150.00</u>
Total Fees	= \$ 975.00
<u>Less payments</u>	<u>= \$ 975.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Prudential is solely liable for:

Member Fees	= \$3,550.00
<u>Forum Fees</u>	<u>= \$ 600.00</u>
Total Fees	= \$4,150.00
<u>Less payments</u>	<u>= \$3,550.00</u>
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

John P. Cullem, Esq.

Arthur R. Louv, Esq.

Neal J. Tourdo

Public Arbitrator, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

John P. Cullem, Esq.

Public Arbitrator, Presiding Chairperson

September 22, 2004

Signature Date

/s/

Arthur R. Louv, Esq.

Public Arbitrator

September 22, 2004

Signature Date

18

Neal J. Tourdo

Non-Public Arbitrator

September 22, 2004

Signature Date

September 28, 2004

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

SEP. 22. 2004 9:52AM

NASD REGULATIONS

NO. 568 P. 6/6

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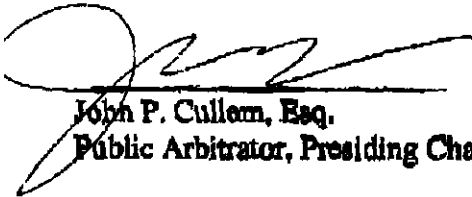
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John P. Cullem, Esq.
Arthur R. Louv, Esq.
Neal J. Tourdo

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Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures



John P. Cullem, Esq.
Public Arbitrator, Presiding Chairperson

9/22/2004
Signature Date

Arthur R. Louv, Esq.
Public Arbitrator

Signature Date

Neal J. Tourdo
Non-Public Arbitrator

Signature Date

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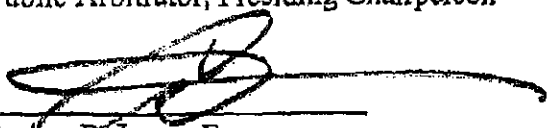
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Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

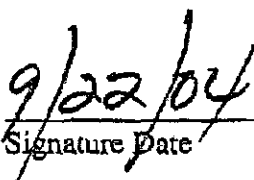
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John P. Cullem, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Arthur R. Louv, Esq.
Public Arbitrator



Signature Date

Neal J. Tourdo
Non-Public Arbitrator

Signature Date

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NASD REGULATIONS

NO. 567 P. 6/6

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Arthur R. Louv, Esq.
Neal J. Tourdo

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- Non-Public Arbitrator

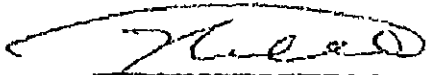
Concurring Arbitrators' Signatures

John P. Cullem, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Arthur R. Louv, Esq.
Public Arbitrator

Signature Date



Neal J. Tourdo
Non-Public Arbitrator

5/22/04

Signature Date

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