
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
John W. Hendrix, IRA

Case Number: 03-00564

Names of the Respondents
Prudential Securities, Inc.
Warren R. Thompson

Hearing Site: Orlando, FL

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

REPRESENTATION OF PARTIES

For John W. Hendrix, IRA, hereinafter referred to as "Claimant": Robert Dyer, Esq., Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A., Orlando, FL.

For Respondents Prudential Securities, Inc. ("Prudential") and Warren R. Thompson ("Thompson"): Martin Hunger, First Vice President, Associate General Counsel, Prudential, New York, NY and Patrizia Salvaggio, Esq., Stein Rosenberg & Stein, P.A., Ft. Lauderdale, FL.

CASE INFORMATION

Statement of Claim filed on or about: January 24, 2003.

Claimant signed the Uniform Submission Agreement: December 20, 2002.

Statement of Answer filed by Respondents on or about: March 25, 2003.

Respondent Prudential signed the Uniform Submission Agreement: March 24, 2003.

Respondent Thompson signed the Uniform Submission Agreement: March 21, 2003.

CASE SUMMARY

Claimant asserted the causes of action of breach of contract and breach of fiduciary duty. The causes of action relate to an investment strategy that included short term trading in mutual fund "B" shares.

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 of between \$338,563.00 and \$466,962.00 plus pre-judgment interest and all costs and expenses of litigating this arbitration.

Respondents requested dismissal of the Statement of Claim, costs, and such other and further relief as the undersigned arbitrators (the "Panel") deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

During the evidentiary hearing, motions to strike testimony, to disqualify expert witness, and to bar documents were made by Respondents. All motions were either denied, withdrawn or resolved by agreement of the parties.

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, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents Prudential and Thompson are liable, jointly and severally, for breach of contract and shall pay to Claimant compensatory damages in the sum of \$350,235.00 plus interest in the sum of \$60,039.00 which accrued from February 1, 2002 through May 31, 2004.

Respondents Prudential and Thompson are liable, jointly and severally, and shall pay to Claimant costs in the sum of \$17,802.53.

Respondents Prudential and Thompson are liable, jointly and severally, and shall pay to Claimant the sum of \$300.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.

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

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	= \$ 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. Accordingly, Respondent Prudential is a member firm and a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were granted during these proceedings for which fees were assessed.

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 assessed during these proceedings.

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 (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: May 14, 2004	1 session

One (1) Pre-hearing session with the Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: October 14, 2003	1 session

Six (6) Hearing sessions @ \$1,125.00	= \$6,750.00
Hearing Dates: May 18, 2004	2 sessions
May 19, 2004	2 sessions
May 20, 2004	2 sessions

Total Forum Fees	= \$8,325.00
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The Panel has assessed total forum fees of \$8,325.00, jointly and severally, to Respondents Prudential and Thompson.

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:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 300.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent Prudential is solely liable for:

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

Respondents Prudential and Thompson are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 8,325.00
Total Fees	= \$ 8,325.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 8,325.00

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

ARBITRATION PANEL

Noel K. Evans, Esq.	-	Public Arbitrator, Presiding Chairperson
Susan Jefferbaum Beck	-	Public Arbitrator
Herbert Schwartz	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Noel K. Evans, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/
Susan Jefferbaum Beck
Public Arbitrator

Signature Date

/s/
Herbert Schwartz
Non-Public Arbitrator

Signature Date

June 1, 2004
Date of Service (For NASD Dispute Resolution office use only)

MAY 27 2004 11:09AM NASD BOCA RATON

NO. 847 P. 5

NASD Dispute Resolution

Arbitration No. 03-00564

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Respondent Prudential is solely liable for:

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

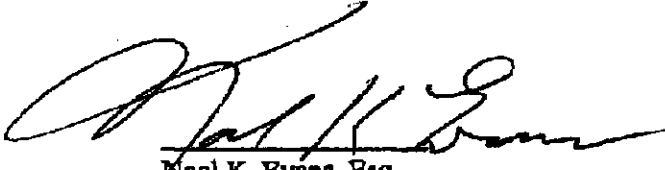
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Noel K. Evans, Esq.
Public Arbitrator, Presiding Chairperson5/27/04
Signature Date_____
Susan Jefferbaum Beck
Public Arbitrator_____
Signature Date_____
Herbert Schwartz
Non-Public Arbitrator_____
Signature Date_____
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Concurring Arbitrators' Signatures

Noel K. Evans, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Susan Jefferbaum Beck
Public Arbitrator

5-29-04
Signature Date

Herbert Schwartz
Non-Public Arbitrator

Signature Date

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

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NO. 847 P. 5

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Award Page 4 of 4

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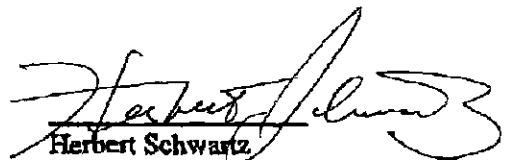
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Signature Date

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Public Arbitrator

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Herbert Schwartz
Non-Public Arbitrator

5/27/04

Signature Date

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