

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

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In the Matter of the Arbitration Between:

Name of the Claimant  
Steve Jager

Case Number: 03-02515

Name of the Respondent  
Prudential Securities Incorporated

Hearing Site: Atlanta, Georgia

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Steve Jager, hereinafter referred to as "Claimant": M. Clay Ragsdale, Esq., Ragsdale LLC, Birmingham, Alabama.

For Prudential Securities Incorporated, hereinafter referred to as "Respondent": Kathy M. Klock, Esq. and Jonathan B. Butler, Esq., Steel Hector Davis LLP, West Palm Beach, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: April 1, 2003,  
Claimant signed but did not date the Uniform Submission Agreement.  
Statement of Answer filed by Respondent on or about: July 5, 2004.  
Respondent did not file an executed Uniform Submission Agreement.  
Amended Answer and Defenses to Statement of Claim filed on or about: November 24, 2004.  
Request to file Respondent's Amended Answer and Defenses to Statement of Claim filed on or about: December 1, 2004.  
Respondent's Motion for Summary Disposition filed on or about: January 11, 2005.  
Claimant's Objections and Response to Motion for Summary Disposition filed on or about: February 3, 2005.

**CASE SUMMARY**

Claimant asserted the following causes of action: breaches of the duty of care and fiduciary obligation; failure to disclose negative information regarding the stock in question; misrepresentation based upon Alabama common law and Alabama Blue Sky Law; and, failure to do appropriate due diligence. The causes of action relate to Claimant's investment in shares of stock of PurchasePro.com.

Unless specifically admitted in its Answers, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested \$178,543.00 in compensatory damages for his losses and \$750,000.00 in punitive damages, filing fees, attorneys' fees, as well as costs for witnesses and production.

Respondent requested that the arbitration panel dismiss the claims alleged in the Statement of Claim, assess the forum fees against Claimant, and award Respondent the attorneys' fees and costs, including expert witness fees, incurred by it in the defense of this matter.

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

Respondent did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On or about December 21, 2004, the arbitration panel issued an order which granted Respondent's request to file Respondent's Amended Answer and Defenses to Statement of Claim.

On or about February 7, 2005, the arbitration panel issued an order which denied Respondent's Motion for Summary Disposition.

At the conclusion of Claimant's case, Respondent asserted a motion to dismiss. The arbitration panel reserved ruling on said motion until the conclusion of the entire case. During their deliberation session at the conclusion of the case, the panel denied the motion to dismiss.

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

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

The arbitration panel finds for Respondent.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages and the parties' requests for attorneys' fees, 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 = \$375.00

#### **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	= \$2,250.00
Pre-hearing process fee	= \$750.00
Hearing process fee	= \$4,000.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

February 8, 9 and 10, 2005, Hearing Dates, joint adjournment request = \$600.00 assessed to Claimant and \$600.00 assessed to Respondent.

#### **Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session.

No three-day cancellation 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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00 = \$900.00

Pre-hearing conferences: December 14, 2004 1 session  
December 20, 2004 1 session

Two (2) Pre-hearing sessions with the Panel @ \$1,200.00 = \$2,400.00

Pre-hearing conferences: July 6, 2004 1 session  
February 7, 2005 1 session

Four (4) Hearing sessions @ \$1,200.00 = \$4,800.00

Hearing Dates:	March 29, 2005	2 sessions
	March 30, 2005	2 sessions

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Total Forum Fees	= \$8,100.00
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The Panel has assessed the total forum fees of \$8,100.00 to Claimant.

**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**

Claimant is solely liable for:

Initial Filing Fee	= \$375.00
Adjournment Fee	= \$600.00
Forum Fees	= \$8,100.00
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Total Fees	= \$9,075.00
Less payments	= \$2,175.00
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Balance Due NASD Dispute Resolution	= \$6,900.00

Respondent is solely liable for:

Member Fees	= \$7,000.00
Adjournment Fee	= \$600.00
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Total Fees	= \$7,600.00
Less payments	= \$7,600.00
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Balance Due NASD Dispute Resolution	= \$0.00

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

**ARBITRATION PANEL**

Joe E. Manuel, Esq.	-	Public Arbitrator, Presiding Chair
Lemoine D. Pierce, J.D.	-	Public Arbitrator
Mary O. Pitts, Esq.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/s/\_\_\_\_\_  
Joe E. Manuel, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
Lemoine D. Pierce, J.D.  
Public Arbitrator

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

\_\_\_\_\_/s/\_\_\_\_\_  
Mary O. Pitts, Esq.  
Non-Public Arbitrator

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

April 1, 2005

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

**Concurring Arbitrators' Signatures**

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Joe E. Manuel, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

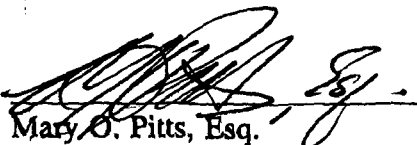
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Lemoine D. Pierce, J.D.  
Public Arbitrator

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Signature Date

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Mary O. Pitts, Esq.  
Non-Public Arbitrator

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Signature Date

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Joe E. Mammal, Esq.  
Public Arbitrator, Presiding Chair

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Lemoine D. Pierce, J.D.  
Public Arbitrator

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Signature Date

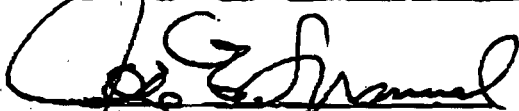
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Signature Date

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Mary O. Pitts, Esq.  
Non-Public Arbitrator

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Concurring Arbitrators' Signatures



Joe E. Manuel, Esq.  
Public Arbitrator, Presiding Chair

4-01-05  
Signature Date

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Lemoine D. Pierce, J.D.  
Public Arbitrator

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Signature Date

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Mary O. Pitts, Esq.  
Non-Public Arbitrator

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Signature Date

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