
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Terrance H. Brown

Case Number: 03-02723

Names of the Respondents
Prudential Securities, Inc.
Bernice K. Freeland
James Robert Sory, Jr.
Richard Dean Brusca

Hearing Site: Boca Raton, FL

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

REPRESENTATION OF PARTIES

For Terrance H. Brown, hereinafter referred to as "Claimant": James Richard Hooper, Esq. and Michael B. Lynch, Esq., Hooper and Weiss, L.L.C., Orlando, FL.

For Prudential Securities, Inc. ("PSI"), Bernice K. Freeland ("Freeland"), James Robert Sory, Jr. ("Sory"), and Richard Dean Brusca ("Brusca"), hereinafter collectively referred to as "Respondents": Marc S. Dobin, Esq., Dobin & Jenks, LLP, Jupiter, FL.

CASE INFORMATION

Statement of Claim filed on or about: April 14, 2003.

Claimant signed the Uniform Submission Agreement: March 21, 2003.

Statement of Answer filed by Respondents on or about: June 16, 2003.

Respondent PSI signed the Uniform Submission Agreement: December 3, 2003.

Respondent Freeland signed the Uniform Submission Agreement: May 28, 2003.

Respondent Sory signed the Uniform Submission Agreement: May 28, 2003.

Respondent Brusca signed the Uniform Submission Agreement: November 25, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: suitability; breach of fiduciary duty; breach of contract; violations of Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934; common law fraud; violations of the rules of NASD and NYSE including NYSE rules 401 and 405 and NASD Conduct rules 2110, 2120, 2210, 2310, and 3010; negligence; and, failure to supervise. The causes of action relate to the selection of money managers for Claimant's accounts by Respondents and subsequent monitoring of the money managers' performance by Respondents. The shares of stock purchased by the money managers included: Kimberly Clark, Pfizer, Tyco International, Cardinal Health, Wells Fargo & Co., Dell Computer, General Electric, Merrill Lynch, and AOL Time Warner.

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 approximately \$260,484.47, disgorgement of commissions, interest, punitive damages, attorneys' fees, costs, and such other and further relief as the undersigned arbitrators (the "Panel") deemed just and proper.

Respondents requested dismissal of the Statement of Claim, costs, and attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

On or about May 20, 2004, Claimant filed a Notice of Voluntary Dismissal With Prejudice of Respondents Freeland, Sory, and Brusca.

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:

Respondent PSI is liable for breach of fiduciary duty, suitability, negligence, respondeat superior, and failure to supervise, and shall pay to Claimant compensatory damages in the sum of \$142,242.24 inclusive of prejudgment interest.

Claimant's claims for relief based on breach of contract, common law fraud, violation Rule 10b-5 of the Securities Exchange Act of 1934, violation of NASD and NYSE rules, and violation of state laws are denied.

All costs and attorneys' fees shall be borne by the party incurring same.

Claimant shall pay the cost of its expert witness.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, 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 PSI 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 the Panel @ \$1,125.00	= \$ 1,125.00
Pre-hearing conference: November 21, 2003 1 session	
Three (3) Hearing sessions @ \$1,125.00	= \$ 3,375.00
Hearing Dates: June 2, 2004 2 sessions	
June 3, 2004 1 session	
<hr/> Total Forum Fees	<hr/> = \$ 4,500.00

The Panel has assessed \$2,250.00 of the forum fees to Claimant.

The Panel has assessed \$2,250.00 of the forum fees to Respondent PSI.

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	= \$ 300.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,550.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 1,125.00

Respondent PSI is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 7,450.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 2,250.00

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

ARBITRATION PANEL

Bonnie L. Roddenberry, Esq.	-	Public Arbitrator, Presiding Chairperson
Sheldon Glassberg, Esq.	-	Public Arbitrator
Lionel P. Greenbaum	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/
Bonnie L. Roddenberry, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

_____/s/
Sheldon Glassberg, Esq.
Public Arbitrator

Signature Date

_____/s/
Lionel P. Greenbaum
Non-Public Arbitrator

Signature Date

June 14, 2004
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
Arbitration No. 03-02723
Award Page 4 of 4

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Lionel P. Greenbaum	-	Non-Public Arbitrator

Consenting Arbitrators' Signatures



Bonnie L. Roddenberry, Esq.
Public Arbitrator, Presiding Chairperson

6/8/2004

Signature Date

Sheldon Glassberg, Esq.
Public Arbitrator

Signature Date

Lionel P. Greenbaum
Non-Public Arbitrator

Signature Date

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JUN. 9. 2004 12:16PM NASD BOCA RATON

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NASD Dispute Resolution

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Concurring Arbitrators' Signatures

Bonnie L. Roddenberry, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Sheldon Glassberg, Esq.
Public Arbitrator

6-11-04
Signature Date

Lionel P. Greenbaum
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chairperson

Signature Date

Sheldon Glassberg, Esq.
Public Arbitrator

Signature Date

Lionel P. Greenbaum
Non-Public Arbitrator

Signature Date

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