

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

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In the Matter of the Arbitration Between:

Sylvia Schuyler, The Schuyler Family Trust and The B & C Intervivos Trust, Claimants v.  
Prudential Securities, Inc., Respondent

Case Number: 03-03147

Hearing Site: Los Angeles, California

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Nature of the Dispute: Customers v. Member

**REPRESENTATION OF PARTIES**

For Claimants:

Philip M. Aidikoff, Esq.  
Orousha Brocious, Esq.  
Aidikoff & Uhl  
Beverly Hills, California

For Respondent:

Terry Ross, Esq.  
Julie A. Mote, Esq.  
Keesal Young & Logan  
Long Beach, California

**CASE INFORMATION**

Statement of Claim filed: June 2, 2003

Claimants' Joint Uniform Submission Agreement signed: May 28, 2003

Statement of Answer filed by Respondent: August 22, 2003

Respondent's Uniform Submission Agreement signed: July 31, 2003

**CASE SUMMARY**

Claimants' Statement of Claim alleged breach of fiduciary duty, unsuitability, fraud, constructive fraud, elder abuse, unfair and deceptive practices against senior citizens, violations of federal and state securities laws and of NASD and NYSE Rules, and failure to supervise. Claimants'

allegations involved transactions in securities primarily concentrated in aggressive growth sectors like technology and bio-technology, including, but not limited to, unit investment trusts such as the Van Kampen Aggressive Growth Internet 19 Fund, the Van Kampen Focus Portfolio Unit 250, BioTech and Pharm. Port. 12A, and the National Equity Trust B2B E-Commerce Enablers Trust, and stocks in Nortel Networks, Cisco Systems, and Solectron.

Respondent denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

### **RELIEF REQUESTED**

Claimants' Statement of Claim requested \$750,000.00 in compensatory damages, disgorgement and restitution of all earnings, profits, compensation and benefits received by Respondent, lost opportunity costs, unspecified punitive damages, treble damages, unspecified pre- and post-judgment interest, and costs, including attorney's fees.

Respondent requested dismissal of the Claimants' Statement of Claim in its entirety.

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

On May 28, 2003, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waivers of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On March 23, 2004, Respondent made a Motion in Limine concerning the introduction of evidence concerning a separate arbitration brought by one of Respondent's brokers for wrongful termination. After due deliberation, the Panel granted the motion.

On March 23, 2004, Respondent made a Motion in Limine concerning the introduction of evidence of customer complaints against one of Respondent's brokers. After due deliberation, the Panel denied the motion.

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent is liable to and shall pay Claimants the sum of \$500,000.00 in compensatory damages.
- 2) Respondent is liable to and shall pay Claimants the sum of \$500,000.00 in punitive damages pursuant to California Civil Code §3294(a).
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 500.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Prudential Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 5,000.00
<b>Total Member Fees</b>	<b>= \$ 8,550.00</b>

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

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

Two (2) Pre-hearing conference sessions with a single arbitrator @ \$ 450.00/session	= \$ 900.00
Pre-hearing conferences:	
December 12, 2003	1 session
January 6, 2004	1 session

Two (2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$ 2,400.00
Pre-hearing conferences:	
October 28, 2003	1 session
October 31, 2003	1 session

Eight (8) Hearing sessions @ \$1,200.00/session	= \$ 9,000.00
Hearings:	
March 10, 2004	2 sessions
March 11, 2004	2 sessions
March 24, 2004	2 sessions
March 25, 2004	2 sessions

<b>Total Forum Fees</b>	<b>= \$12,900.00</b>
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1. The Panel assessed \$6,450.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$6,450.00 of the forum fees to Respondent.

**Fee Summary**

1. Claimants Sylvia Schuyler, The Schuyler Family Trust and The B & C Intervivos Trust, are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	<u>= \$ 6,450.00</u>
Total Fees	= \$ 6,950.00
<u>Less payments</u>	<u>=(1,700.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 5,250.00</b>

2. Respondent Prudential Securities, Inc. is charged with the following fees and costs:

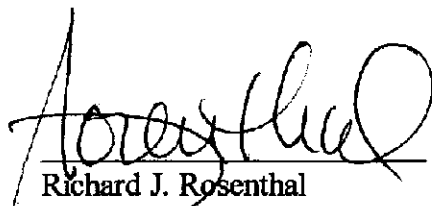
Member Fees	= \$ 8,550.00
<u>Forum Fees</u>	<u>= \$ 6,450.00</u>
Total Fees	= \$15,000.00
<u>Less payments</u>	<u>=(11,550.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 3,450.00</b>

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

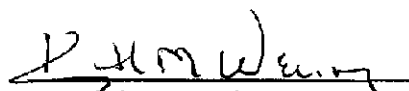
**ARBITRATION PANEL**

<b><i>Richard J. Rosenthal</i></b>	-	<b><i>Public Arbitrator, Presiding Chair</i></b>
<b><i>Kenneth M. Weinman, Esq.</i></b>	-	<b><i>Public Arbitrator</i></b>
<b><i>Joy Diane Williams</i></b>	-	<b><i>Non-Public Arbitrator</i></b>

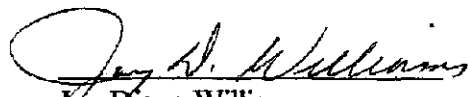
**Concurring Arbitrators' Signatures**

  
Richard J. Rosenthal  
Chair, Public Arbitrator

March 25, 2004  
Signature Date

  
Kenneth M. Weinman, Esq.  
Public Arbitrator

25 March 2004  
Signature Date

  
Joy Diane Williams  
Non-Public Arbitrator

March 25, 2004  
Signature Date

3/26/04  
Date of Service