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

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In the Matter of the Arbitration Between:

Name of the Claimant

Thomas M. Henderson, Individually and on behalf  
of Thomas M. Henderson Living Trust Account by  
Janine M. Burns, POA

Case Number: 03-03303

Names of the Respondents

Prudential Securities, Inc.  
Joseph Traba, Jr.

Hearing Site: Boca Raton, Florida

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

**REPRESENTATION OF PARTIES**

For Thomas M. Henderson, Individually and on behalf of Thomas M. Henderson Living Trust Account by Janine M. Burns, POA, hereinafter referred to as "Claimant": Janine M. Burns, Inverness, Florida, appeared as his representative.

For Prudential Securities, Inc. ("Prudential") and Joseph Traba, Jr. ("Traba"), hereinafter collectively referred to as "Respondents": Craig D. Stein, Esq. and Patricia Salvaggio, Esq., Stein, Rosenberg & Stein, P.A., Fort Lauderdale, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: May 7, 2003.

Claimant signed the Uniform Submission Agreement: March 1, 2003.

Statement of Answer filed by Respondents on or about: July 21, 2003.

Supplement to the Statement of Answer filed by Respondents on or about: April 7, 2004.

Respondent Prudential signed the Uniform Submission Agreement: July 21, 2003.

Respondent Traba did not file an executed Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: 1) failure to supervise; and, 2) suitability. The causes of action relate to the purchase and sale of various stocks and mutual funds in Claimant's accounts, including, but not limited to, Allegiance Corp., Lucent Technology, Microsoft Corp., Dial Corp., Unocal, Prudential Equity Income Fund Class B and Prudential Jemison Growth Fund Class B.

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

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$38,873.00, punitive damages in the amount of \$10,000.00, forum fees in the amount of \$625.00, production fees in the amount of \$303.95, interest and other costs in the amount of \$40.00.

Respondents requested that the Statement of Claim be dismissed in its entirety and that they be awarded their costs and expenses and that the Panel enter an order expunging this matter from the Central Registration Depository (the "CRD") record of Respondent Traba.

**OTHER ISSUES CONSIDERED AND DECIDED**

Respondent Traba 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 is bound by the determination of the Panel on all issues submitted.

On or about April 29, 2004, the parties advised NASD Dispute Resolution that they had settled this matter and that they would be submitting a proposed Stipulated Award with a request for expungement of the NASD CRD record of Respondent Traba.

On or about May 4, 2004, the parties submitted to NASD Dispute Resolution a proposed Stipulated Award with a request for expungement of the NASD CRD record of Respondent Traba.

**AWARD**

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

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.

Based upon the statement by Claimant, Claimant determined that Respondent Traba, who serviced Claimant's accounts, had not done anything wrong, had not committed any of the wrongful acts alleged in the Statement of Claim and Respondent was not liable to Claimant under any of the wrongful acts alleged in the Statement of Claim and, at the joint request of the parties, the Arbitrator recommends the expungement of all references to the above captioned arbitration from Respondent Traba's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Traba must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Pursuant to NASD Rule 2130, the Arbitrator 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 NASD CRD system or regulatory requirements.

Each party shall bear their respective costs, including attorneys' fees.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied, with prejudice.

### **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	= \$ 175.00
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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 party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00

#### **Adjournment Fees**

No requests for adjournments were filed in this matter.

#### **Injunctive Relief Fees**

No injunctive relief fees were incurred during this proceeding.

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

The Arbitrator 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 a single arbitrator @ \$450.00	= \$450.00
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Pre-hearing conference: October 10, 2003 1 session	
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Total Forum Fees	= \$450.00
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The Arbitrator has assessed \$150.00 of the forum fees to Claimant

The Arbitrator has assessed \$150.00 of the forum fees to Respondent Prudential.

The Arbitrator has assessed \$150.00 of the forum fees to Respondent Traba.

**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	= \$ 175.00
Forum Fees	= \$ 150.00
<u>Retained Hearing Session Deposit</u>	<u>= \$ 300.00</u>
Total Fees	= \$ 625.00
<u>Less payments</u>	<u>= \$ 625.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Prudential is solely liable for:

Member Fees	= \$ 2,625.00
<u>Forum Fees</u>	<u>= \$ 150.00</u>
Total Fees	= \$ 2,775.00
<u>Less payments</u>	<u>= \$ 2,775.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Traba is solely liable for:

<u>Forum Fees</u>	<u>= \$ 150.00</u>
Total Fees	= \$ 150.00
<u>Less payments</u>	<u>= \$ 150.00</u>
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.

**ARBITRATOR**

*Martin M. VanLuven*

*Public Arbitrator, Presiding Chairperson*

**Arbitrator's Signature**

/s/  
Martin M. VanLuven  
Public Arbitrator, Presiding Chairperson

06/10/04  
Signature Date

06/14/04  
Date of Service (For NASD Dispute Resolution office use only)

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*Martin M. VanLuven*

*Public Arbitrator, Presiding Chairperson*

**Arbitrator's Signature**

*Martin M. Van Luven*

Martin M. VanLuven  
Public Arbitrator, Presiding Chairperson

*June 10 2004*  
Signature Date

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