

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 03-03771

John R. Schuck, Sr.

Names of the Respondents

Hearing Site: Charlotte, North Carolina

Prudential Equity Group, LLC
Stephen Robert Gagne

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

REPRESENTATION OF PARTIES

Claimant, John R. Schuck, Sr., hereinafter referred to as "Claimant", was represented by Donald M. Brown, Jr., Esq., Brown & Associates, PLLC, Charlotte, North Carolina.

Respondents, Prudential Equity Group, LLC ("Prudential") and Stephen Robert Gagne ("Gagne"), hereinafter collectively referred to as "Respondents", were represented by Jeffrey L. Squires, Esq., Garvey Schubert Barer, Washington, DC.

CASE INFORMATION

Statement of Claim filed on May 22, 2003.

Claimant signed the Uniform Submission Agreement on May 22, 2003.

Statement of Answer filed by Respondents on August 22, 2003.

A representative of Respondent Prudential executed the Uniform Submission Agreement on August 22, 2003.

Respondent Gagne did not file a properly executed Uniform Submission Agreement with NASD Dispute Resolution.

CASE SUMMARY

Claimant asserted the following causes of action, among others: negligent supervision, breach of fiduciary duty, *negligent investment strategy and advice*, fraud, breach of contract, conversion, unsuitability, and violation of North Carolina's securities laws. The causes of action relate to the purchase of Global Crossing, Ltd. and various other stocks and options.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted, statute of limitations, ratification, waiver, failure to state a claim upon which punitive damages may be awarded, and economic loss doctrine.

RELIEF REQUESTED

Claimant in his Statement of Claim requested:

Compensatory Damages	\$100,000.00
Punitive Damages	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer requested that the Panel dismiss the Statement of Claim, that Respondent Gagne's records with the Central Registration Depository be expunged, and that costs and attorneys' fees be award to Respondents.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Gagne 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 and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

At the hearing, Respondents made a motion to limit damages to any losses incurred due to options trading. The Panel granted this motion.

The parties have 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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable to and shall pay to Claimant compensatory damages of \$35,000.00;
2. The parties shall bear their respective costs, including attorney's fees, except as Fees are specifically addressed below; and
3. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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 = \$ 225.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Prudential is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00
Total Member Fees	= \$3,550.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

May 3-5, 2004, adjournment requested by the parties = \$ 750.00

1. The Panel has assessed \$375.00 of the adjournment fees to Claimant.
2. The Panel has assessed \$375.00 of the adjournment fees jointly and severally to Respondents.

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: December 7, 2004 1 session

One (1) Pre-hearing session with Panel @ \$750.00 = \$ 750.00
Pre-hearing conference: December 15, 2003 1 session

Five (5) Hearing sessions @ \$750.00 = \$3,750.00
Hearing Dates: December 13, 2004 2 sessions
December 14, 2004 3 sessions

Total Forum Fees = \$4,950.00

1. The Panel has assessed \$2,475.00 of the forum fees to Claimant.
2. The Panel has assessed \$2,475.00 of the forum fees jointly and severally to Respondents.

FEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 225.00
Adjournment Fee	= \$ 375.00
Forum Fees	= \$2,475.00
Total Fees	= \$3,075.00
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$1,650.00

2. Respondent Prudential is assessed and shall pay the following fees:

Member Fees	= \$3,550.00
Total Fees	= \$3,550.00
Less payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally assessed and shall pay the following fees:

Adjournment Fee	= \$ 375.00
Forum Fees	= \$2,475.00
Total Fees	= \$2,850.00
Less payments	= \$1,650.00
Balance Due NASD Dispute Resolution	= \$1,200.00

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

ARBITRATION PANEL

Robert S. Bernard, Esq.	-	Public Arbitrator, Presiding Chairperson
Thomas A. Tracy	-	Public Arbitrator, Panelist
David P. McDuffee	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Robert S. Bernard, Esq.
Public Arbitrator, Presiding Chairperson

12/24/04
Signature Date

Thomas A. Tracy
Public Arbitrator, Panelist

Signature Date

David P. McDuffee
Non-Public Arbitrator, Panelist

Signature Date

December 29 2004
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Robert S. Bernard, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Thomas A. Tracy
Thomas A. Tracy
Public Arbitrator, Panelist

Dec. 29, 2004
Signature Date

David P. McDuffee
Non-Public Arbitrator, Panelist

Signature Date

December 29, 2004


Concurring Arbitrators' Signatures

Robert S. Bernard, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Thomas A. Tracy
Public Arbitrator, Panelist

Signature Date



David P. McDuffee
Non-Public Arbitrator, Panelist

27 Dec 04

Signature Date

December 29 2004

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