

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Paul J. Henderson,
Claimant,

Case Number: - 03-04309

v.

Prudential Equity Group, LLC,
Robert Earle Withers, II, David Harold Jacobsmeyer
and Wister White Holt, Sr.,
Respondents.

Hearing Site: Southfield, Michigan

NATURE OF THE DISPUTE

Customer vs. Member Firm and Associated Persons

REPRESENTATION OF PARTIES

Claimant, Paul J. Henderson ("Henderson"), hereinafter collectively referred to as "Claimant": Robert O. Appleton, Jr., Esq. of Appleton, Kretmar, Beatty & Stolze, located in Clayton, Missouri.

Respondents, Prudential Equity Group, LLC ("Prudential"), Robert Earle Withers, II ("Withers"), David Harold Jacobsmeyer ("Jacobsmeyer"), hereinafter collectively referred to as "Respondents": Matthew Bartle, Esq. of Berkowitz, Stanton, Brandt, Williams & Shaw, located in Kansas City, Missouri.

Respondent, Wister White Holt, Sr. ("Holt"), hereinafter referred to as Respondent: Michael A. Garvin, Esq. of Carnahan & Garvin, LLC, located in St. Louis, Missouri.

CASE INFORMATION

Statement of Claim filed on or about: June 4, 2003

Claimant Henderson signed the Uniform Submission Agreement: June 4, 2003

Statement of Answer jointly filed by Respondents, Prudential, Withers and Jacobsmeyer, on or about: September 4, 2003

Respondent Prudential signed the Uniform Submission Agreement: October 23, 2003

Respondent Withers signed the Uniform Submission Agreement: October 6, 2003

Respondent Jacobsmeyer signed the Uniform Submission Agreement: September 29, 2003

Statement of Answer filed by Respondent Holt on or about: September 15, 2003

Respondent Holt did not submit a signed Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: negligence, breach of fiduciary duty, misrepresentations, omissions and trading disputes.

Unless specifically admitted in their Answer, Respondents, Prudential, Withers and Jacobsmeyer, denied the allegations made in the Statement of Claim and asserted the following defenses: failure to mitigate, failure to state a claim upon which relief may be granted,

ratification, account stated, estoppel, waiver, laches and good faith.

Unless specifically admitted in its Answer, Respondent Holt denied the allegations made in the Statement of Claim and asserted the following defenses: respondeat superior, failure to mitigate, failure to state a claim upon which relief can be granted and good faith.

RELIEF REQUESTED

Claimants requested \$296,460.00 in compensatory damages; \$252,400.00 in punitive damages, costs and attorney's fees.

Respondents Prudential, Withers, Jacobsmeyer and Holt requested dismissal of the Statement of Claim in its entirety with prejudice; a directive by the Panel that all references to the proceeding be expunged from the CRD records of Respondents Withers and Jacobsmeyer; for fees, costs and attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

The parties entered into a settlement agreement pursuant to which the parties have agreed to present to the Panel this Stipulated Award. The terms of the settlement are memorialized in a Stipulation of Settlement executed by the parties.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) All claims and defenses presented by both parties are hereby dismissed with prejudice;
- 2.) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents, Robert Earle Withers II, David Harold Jacobsmeyer and Wister White Holt, Sr.'s registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondents Withers, Jacobsmeyer and Holt must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 3.) The parties shall execute any and all documents required by the NASD and the courts necessary to make these changes;
- 4.) Except as otherwise specified herein, parties shall bear their own costs, expenses and forum fees; and
- 5.) Any and all relief not specifically addressed herein, including punitive damages, is 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 = \$ 300.00

Adjournment Fees

Adjournments requested during these proceedings:

Hearing Dates, adjournment by Claimant and Respondents = \$1,125.00
(waived by NASD)

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 persons at the time of the events giving rise to the dispute. In this matter, Prudential Equity Group, LLC is a party.

Member surcharge = \$1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$2,750.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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 Panel x \$1,125.00 = \$1,125.00

Pre-hearing conference: April 16, 2004 1 session

Total Forum Fees = \$1,125.00

The parties have agreed to pay forum fees as follows:

Claimant Henderson shall solely pay 50% of the total forum fees in the amount of \$562.50.

Respondents Prudential, Withers, Jacobsmeyer and Holt shall jointly and severally pay 50% of the total forum fees in the amount of \$562.50.

FEE SUMMARY

Claimant Henderson be and hereby is solely liable for:

Initial Filing Fee = \$ 300.00

Forum Fees = \$ 562.50

Total Fees = \$ 862.50

Less payments = \$1,425.00

Refund Due from NASD Dispute Resolution = \$ 562.50

Respondent Prudential be and hereby is solely liable for:

Member Fees = \$5,200.00

Less payments = \$5,200.00

Balance Due NASD Dispute Resolution = \$ 0.00

Respondents, Prudential, Withers, Jacobsmeyer and Holt, be and hereby are jointly and severally liable for:

Forum Fees	= \$ 562.50
<u>Less payments</u>	<u>= \$1,050.00</u>
Refund Due from NASD Dispute Resolution	= \$ 487.00

All balances are due to NASD Dispute Resolution.

Paul J. Henderson

Prudential Equity Group, LLC
Formerly known as Prudential Securities, Inc.
By:

Signature Date

Print
Title:

Signature Date

Robert Earle Withers, II

David Harold Jacobsmeyer

Signature Date

Wister White Holt, Sr.

Signature Date

Signature Date

ARBITRATION PANEL

Keith D. Patten, Esq.	-	Public Arbitrator, Presiding Chairperson
Joseph R. Soraghan, Esq.	-	Public Arbitrator
David J. Wagener	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ Keith D. Patten, Esq.
Keith D. Patten, Esq.
Public Arbitrator, Presiding Chair

5/6/05
Signature Date

/s/ Joseph R. Soraghan, Esq.
Joseph R. Soraghan, Esq.
Public Arbitrator

5/5/05
Signature Date

/s/ David J. Wagener
David J. Wagener
Non-Public Arbitrator

5/6/05
Signature Date

5/6/05
Date of Service (For NASD office use only)

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ARBITRATION PANEL

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Joseph R. Soraghan, Esq.	-	Public Arbitrator
David J. Wagener	-	Non-Public Arbitrator

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