

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Clifford Knapp

and

03-04688  
Milwaukee, Wisconsin

Name of Respondents

Prentice Securities, Inc.  
Timothy D. Morales

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

**REPRESENTATION OF PARTIES**

Clifford Knapp ("Claimant") was represented by Paul Erickson, Esq., Gutglass, Erickson, Bonville, Seibel & Faulkner, S.C., Milwaukee, Wisconsin.

Prentice Securities, Inc. ("Respondent Prentice") did not appear or participate in this matter.

Timothy D. Morales ("Respondent Morales") did not appear at the hearing of this matter.

**CASE INFORMATION**

The Statement of Claim was filed on or about June 27, 2003. Submission Agreement of Claimant Clifford Knapp was signed on June 26, 2003.

**CASE SUMMARY**

Claimant specifically alleged as follows:

The claimant had no practical experience in investments and completely relied on respondent and its agent Morales to provide suitable investments and to manage those investments.

Respondents failed to provide suitable investments and failed to follow a suitable investment strategy for a customer with the experience, education, investment objectives, risk tolerance and net worth of the claimant.

Respondents failed to professionally and responsibly advise the claimant in the prudent investment of the assets in his account. Respondent Prentice and its agents, holding themselves out to be highly trained professionals with a sophisticated understanding of financial markets, gained claimant's trust and confidence, which it violated. Respondents disregarded claimant's best interests and purchased various high risk, speculative investments in amounts inconsistent with prudent rules of investing.

At all times relevant to this matter, respondents made false representations to claimants regarding the risks associated with the investments in Boston Market, APS and Northwestern. At all times relevant to this case, respondents (among other things) failed to disclose to claimant the true risks associated with the investments in his account.

At all times relevant to this case, the respondents, among other things, engaged in a continuing course of fraud, misrepresentation, and self-dealing which was relied upon by the claimant to his detriment.

Respondents did not respond to the Statement of Claim.

#### **RELIEF REQUESTED**

Claimant requested an award against respondents finding them liable as follows:

- a. For out of pocket damages to be awarded at the hearing in an amount of not less than \$55,000.00;
- b. For loss of use of invested capital in an amount to be proven at hearing;
- c. For reimbursement of all commissions;
- d. For costs of arbitration and expenses including reasonable attorneys fees, and any other costs deemed reasonable and just;
- e. For punitive damages and exemplary damages in an amount to be determined by the arbitrators;
- f. For reasonable attorney's fees as set forth in Wis. Stat. §§551.59 and 100.18; and
- g. For such other and further relief as the arbitrators deem just and equitable.

#### **OTHER ISSUES CONSIDERED & DECIDED**

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have determined that Respondents Prentice Securities, Inc. and Timothy D. Morales had been properly served with the Statement of Claim pursuant to Rule 10314 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondents Prentice Securities, Inc. and Timothy D. Morales had received due notice of the hearing as required under Rule 10315 of the Code and that arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

On February 26, 2004, a pre-hearing conference was conducted regarding Claimant's Motion to Bar. After considering the arguments and submissions, the Arbitration Panel ruled as follows:

- Claimant's Motion to Bar is entered and continued;
- Respondent's are given 14 days from the date upon which NASD DR sends this Order to Respondents to file an answer to the SOC;
- Should Respondent's so Answer, Claimant's Motion to Bar is denied;
- Should Respondents fail to Answer, Claimant's Motion to Bar is granted;
- NASD DR has represented that all parties, including each respondent, will be served with this Order by regular mail and by CM/RR, provided however that nothing in this Order will require such service by CM/RR be effectuated;
- NASD DR has represented that all parties, including each of the respondents did receive notice, by CM/RR of a previously held PreHearing Conference at which time this matter was set for arbitration on June 2, 04 in Milwaukee, WI.;
- The arbitration hearing will commence at 9 am on June 2, 04 and will continue until it is completed. NASD DR shall attempt to serve Respondent with Notice of Arbitration hearing time and location by regular mail and by CM/RR provided however that nothing in this Order will require that such service by CM/RR be effectuated; and
- Claimant will present testimony and other evidence on June 2 2004 to prove liability and damages whether or not Claimant's Motion to Bar is granted.

The previously considered Motion to Bar was granted at the hearing conducted on June 2, 2004.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

#### AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Prentice Securities, Inc. and Timothy D. Morales shall be and hereby are jointly and severally liable for and shall pay to Claimant Clifford Knapp the sum of \$64,032.00 (**Sixty Four Thousand Thirty Two dollars and No Cents**) as compensatory damages.
2. Respondents Prentice Securities, Inc. and Timothy D. Morales shall be and hereby are jointly and severally liable for and shall pay to Claimant Clifford Knapp the sum of \$21,344.00

(Twenty One Thousand Three Hundred Forty Four Dollars and No Cents) as attorneys' fees.

3. Interest at the rate of 5% per annum is awarded on the above stated sum from and inclusive of June 2, 2004 to and inclusive of the date this Award is paid in full or if this Award is confirmed as a judgment, at the rate of interest specified by law.
4. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
5. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

### **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 firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm(s) is Prentice Securities, Inc.

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

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

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

2	Pre-hearing session(s) with Panel	x	750.00	\$	1,500.00
	January 30, 2004	1	session		
	February 25, 2004	1	session		
1	Hearing session(s)	x	750.00	\$	750.00
	June 2, 2004	1	session		
	Total Forum Fees			\$	2,250.00

The Arbitration Panel has assessed \$2,250.00 of the forum fees jointly and severally to Prentice Securities, Inc. and Timothy D. Morales.

#### Fee Summary

Claimant, Clifford Knapp, shall be and hereby is liable for:

Initial Filing Fee	= \$	225.00
Total Fees	= \$	225.00
<u>Less payments</u>	= \$	-975.00
Balance to be refunded by NASD Dispute Resolution	= \$	- 750.00

Respondent, Prentice Securities, Inc., shall be and hereby is liable for:

Member Fees	= \$	3,550.00
Total Fees	= \$	3,550.00
<u>Less payments</u>	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	3,550.00

Respondents, Prentice Securities, Inc. and Timothy D. Morales shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	2,250.00
Total Fees	= \$	2,250.00
<u>Less payments</u>	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	2,250.00

All balances are due to NASD Dispute Resolution

#### ARBITRATION PANEL

James J. Eccleston, Esq. - Public Arbitrator, Presiding Chair  
Marvin Kopp - Public Arbitrator  
Ronald A. Lavery - Non-Public Arbitrator

Concurring Arbitrators:

/s/ James J. Eccleston

James J. Eccleston, Esq.  
Public Arbitrator, Presiding Chair

July 15, 2004

Signature Date

/s/ Marvin Kopp

Marvin Kopp  
Public Arbitrator

July 21, 2004

Signature Date

/s/ Ronald A. Lavery

Ronald A. Lavery  
Non-Public Arbitrator

July 5, 2004

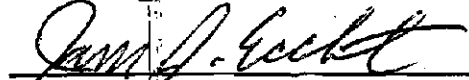
Signature Date

Date of Service: 7/23/04

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Concurring Arbitrators:

  
James J. Eccleston, Esq.  
Public Arbitrator, Presiding Chair

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Marvin Kopp  
Public Arbitrator

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Ronald A. Bavery  
Non-Public Arbitrator

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James J. Eccleston, Esq.  
Public Arbitrator, Presiding Chair

Signature Date

Marvin Kopp  
Public Arbitrator

Signature Date

  
Ronald A. Lavery  
Non-Public Arbitrator

7-5-04  
Signature Date