

**AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Name of Claimants

Leonard M. Danowski and Gloria R. Danowski

and

Case Number: 03-05672

Hearing Site: Milwaukee, Wisconsin

Name of Respondent

Prudential Securities Incorporated
and Mark T. Gierl

NATURE OF DISPUTE

Customer v. Member and Associated Person.

REPRESENTATION OF PARTIES

Leonard M. Danowski and Gloria R. Danowski, ("**Claimants**"), were represented by Peter K. Richardson, Esq., of Michael Best & Friedrich LLP, located in Milwaukee, Wisconsin.

Prudential Securities Incorporated, ("**Prudential**"), and Mark T. Gierl, ("**Gierl**"), ("**Respondents**"), were represented by Jeffrey D. Grossman, Esq., Stradley Ronon, Attorneys at Law, located in Philadelphia, Pennsylvania.

CASE INFORMATION

The Statement of Claim was filed on or about August 4, 2003. The Submission Agreements of Claimants were signed on or about July 25, 2003.

Joint Statement of Answer was filed by Respondents Prudential and Gierl on or about October 10, 2003. The Submission Agreement of Respondent Prudential was signed on or about October 23 2003. The Submission Agreement of Respondent Gierl was signed on or about October 20, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: Unsuitability under Section 10(b) and Rule 10b-5; Wisconsin Uniform Securities Act of 1956, Wisconsin Statute Chapter 551.59; fraud; Wisconsin Deceptive Practices Act; breach of fiduciary duty; negligence; failure to supervise; control person liability; and respondeat superior;

Claimants' causes of action relate to the purchase and sale of Janus Enterprise Fund;

Janus Mercury Fund; Janus Worldwide Fund; Janus Balanced Fund; Robertson Emerging Growth Fund; T. Rowe Price Growth Stock; Janus Growth; T. Rowe Price International Stock; Endeavor Enhanced Stock Index; and Montgomery Select 50.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants failed to state a claim upon which relief can be granted; Claimants damages are attributable to market conditions; Claimants failed to take appropriate steps to mitigate their alleged damages; Claimants damages are due to Claimants failure to object in a timely fashion; Respondents made all statements and investment recommendations to Claimants in good faith; Respondents did not breach a fiduciary duty owed to Claimants; The Claimants authorized, ratified, accepted, acquiesced in and confirmed the acts complained of; Respondents did not proximately cause Claimants any harm; Claimants' negligence claims are barred or mitigated by the doctrines of contributory and comparative negligence; and, Claimants' claims are time barred by the applicable statutes of limitations.

RELIEF REQUESTED

Claimants requested an award in the amount of \$70,718.32 in compensatory damages and \$25,000.00 in punitive damages.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

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 NASD Dispute Resolution ("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. Claimants Leonard M. Danowski's and Gloria R. Danowski's claims against Respondents, Prudential Securities Incorporated and Mark T. Gierl are dismissed in their entirety with prejudice;
2. That other than Forum Fees which are specified below, the parties shall

each bear their own costs and expenses incurred in this matter; and

3. That any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby 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 = \$ 225.00

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. In this matter, the member firm is Prudential Securities, Incorporated.

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

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 arbitrators, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$750.00			= \$ 750.00
Pre-hearing conference:	April 5, 2004	1 session	
Four (4) Hearing sessions x \$750.00			= \$3,000.00
Hearing Date:	December 14, 2004	2 sessions	
	December 15, 2004	2 sessions	
Total Forum Fees			= \$3,750.00

The Arbitration Panel has assessed \$1,875.00 of the forum fees to Claimants jointly and severally.

The Arbitration Panel has assessed \$1,875.00 of the forum fees to Respondents jointly and severally.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 1,875.00
Total Fees	= \$ 2,100.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 1,125.00

Respondent, Prudential Securities Incorporated is liable for:

Member Fees	= \$ 3,350.00
Less payments	= \$ 3,350.00
Balance Due NASD Dispute Resolution	= \$.00

Respondents, Prudential Securities Inc., and Gierl, are jointly and severally liable for:

Forum Fees	= \$ 1,875.00
Total Fees	= \$ 1,875.00
Less payments	= \$.00
Balance Due NASD Dispute Resolution	= \$ 1,875.00

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

ARBITRATION PANEL

Thomas F. Mahoney, Esq. - Public Arbitrator, Presiding Chair
Herbert S. Channick, Esq. - Public Arbitrator
Ramona V. Larson - Non-Public Arbitrator

Concurring Arbitrators:

Thomas F. Mahoney, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Herbert S. Channick, Esq.
Public Arbitrator

Signature Date

Ramona V. Larson
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

January 13, 2005

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Public Arbitrator, Presiding Chair

7 JAN 05
Signature Date

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Public Arbitrator

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NASD Dispute Resolution
Arbitration No. 03-05672
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Public Arbitrator, Presiding Chair


Herbert S. Channick, Esq.
Public Arbitrator

Signature Date

01/10/05
Signature Date

Ramona V. Larson
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution
Arbitration No. 03-05672
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Signature Date


Ramona V. Larson
Non-Public Arbitrator


Signature Date