
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Estate of Vernon A. Davis
Vernon Albert Davis Revocable Living Trust

Case Number: 03-06375

Names of the Respondents

Prudential Securities Incorporated
n/k/a Prudential Equity Group, LLC
Andrew M. Romer

Hearing Site: Orlando, Florida

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

REPRESENTATION OF PARTIES

For Estate of Vernon A. Davis and Vernon Albert Davis Revocable Living Trust, hereinafter collectively referred to as "Claimants": Charles P. Pillans, III, Esq., Bedell, Dittmar, DeVault, Pillans & Coxe, P.A., Jacksonville, Florida.

For Prudential Securities Incorporated n/k/a Prudential Equity Group, LLC ("Prudential") and Andrew M. Romer ("Romer"), hereinafter collectively referred to as "Respondents": Matthew Triggs, Esq., Proskauer Rose LLP, Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed on or about: September 3, 2003.

Claimants signed the Uniform Submission Agreement on: August 20, 2003.

Statement of Answer filed by Respondents on or about: December 11, 2003.

Respondent Prudential signed but did not date the Uniform Submission Agreement.

Respondent Romer signed the Uniform Submission Agreement on: December 9, 2003.

CASE SUMMARY

Claimants alleged the following causes of action: 1) violation of the Florida Securities and Investor Protection Act, more specifically Section 517.301; 2) breach of fiduciary duty; and 3) negligence and negligent supervision. The causes of action relate to excessive trading and unsuitable investments in aggressive growth, speculative growth, slow growth, high yield and distressed equities.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimants requested: 1) compensatory damages in the approximate amount of \$535,396.00; 2) interest; 3) costs; 4) a determination under Section 517.211(6), Florida Statutes, that Claimants are entitled to be awarded attorneys' fees by a court of competent jurisdiction; and 5) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondents requested: 1) dismissal of the Statement of Claim in its entirety; 2) costs; 3) expungement of all reference to the above captioned arbitration from Respondent Romer's registration records maintained by the NASD Central Registration Depository ("CRD"); and 4) such other relief the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

At the evidentiary hearing and the conclusion of Claimants' case-in-chief, Respondent made an *ore tenus* motion to dismiss Claimants' claims. The Panel denied the motion.

The parties 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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable and shall pay to Claimants compensatory damages in the total amount of \$69,800.00, plus interest at the rate of 7.00% per annum that shall accrue from the date of last signature of the Award until the Award is paid in full. The Panel finds Respondents liable on the claims of breach of fiduciary duty, negligence and negligent supervision. The Panel finds no liability on the claims under Chapter 517, Florida Statutes.
2. Respondents are jointly and severally liable and shall reimburse Claimants \$375.00 representing the claim filing fee previously paid by Claimants to NASD Dispute Resolution.
3. Respondent Romer's request for expungement is denied.
4. Any and all claims or relief not specifically addressed herein are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 375.00

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 member firm and a party.

Member surcharge = \$2,250.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

There were no three-day cancellation fees assessed during these proceedings.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

There were no injunctive relief fees assessed during these proceedings.

Forum Fees and Assessments

The Panel 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 Panel @ \$1,200.00 per session = \$1,200.00
Pre-hearing conference: April 6, 2004 1 session

Five (5) Hearing sessions @ \$1,200.00 per session = \$6,000.00
Hearing Dates: November 16, 2004 2 sessions
November 17, 2004 2 sessions
November 18, 2004 1 session

Total Forum Fees = \$7,200.00

The Panel has assessed the total forum fees in the amount of \$7,200.00 jointly and severally to Respondents.

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.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 375.00
Total Fees	= \$ 375.00
<u>Less payments</u>	= \$ 375.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Prudential is solely liable for:

<u>Member Fees</u>	= \$7,000.00
Total Fees	= \$7,000.00
<u>Less payments</u>	= \$7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$7,200.00
Total Fees	= \$7,200.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$7,200.00

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

ARBITRATION PANEL

Jacquelyn M. Shannon, Esq.	-	Public Arbitrator, Presiding Chairperson
Dolores Alfano	-	Public Arbitrator
Morton D. Siegel	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Jacquelyn M. Shannon, Esq.
Public Arbitrator, Presiding Chairperson

November 26, 2004
Signature Date

/s/
Dolores Alfano
Public Arbitrator

November 29, 2004
Signature Date

/s/
Morton D. Siegel
Non-Public Arbitrator

November 24, 2004
Signature Date

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

Nov. 23. 2004 11:30AM NASD

Nov. 26 2004 04:16PM P5
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Jacquelyn M. Shannon, Esq.
Dolores Alfano
Morton D. Siegel

Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


Jacquelyn M. Shannon, Esq.
Public Arbitrator, Presiding Chairperson

11-26-04
Signature Date

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Dolores Alfano
Dolores Alfano
Public Arbitrator

March 29, 2004
Signature Date

Morton D. Siegel
Non-Public Arbitrator

Signature Date

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

Nov 24 04 03:47p

Nov 24 2004 12:11PM

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Dolores Alfano
Public Arbitrator



Morton D. Siegel
Non-Public Arbitrator

Signature Date

11/24/04

Signature Date

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