

**Award**  
**NASD Dispute Resolution**

---

In the Matter of the Arbitration Between:

Menachem Kohl and Elyse Kohl (Claimants) v. Prudential Equity Group, LLC f/k/a Prudential Securities, Inc. (Respondent)

Case Number: 04-01282

Hearing Site: New York, New York

---

Nature of the Dispute: Customers vs. Member.

**REPRESENTATION OF PARTIES**

Claimant Menachem Kohl ("M. Kohl") and Elyse Kohl ("E. Kohl") hereinafter collectively referred to as "Claimants": Mel Urbach, Esq., Law Offices of Mel Urbach, Jersey City, NJ.

Respondent Prudential Equity Group, LLC f/k/a Prudential Securities, Inc. ("Prudential") hereinafter referred to as "Respondent": Amy B. Jones, Esq., Garvey Schubert Barer, Washington, DC.

**CASE INFORMATION**

*Statement of Claim filed on or about: February 25, 2004.*

Claimants signed the Uniform Submission Agreement: February 24, 2004.

*Statement of Answer filed by Respondent on or about: May 20, 2004.*

Respondent signed the Uniform Submission Agreement: May 19, 2004.

**CASE SUMMARY**

Claimants asserted the following causes of action: misrepresentations; suitability; margin calls; breach of contract; breach of fiduciary duty; omission of facts; negligence; and failure to supervise. The causes of action relate to unspecified securities.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$1,936,117.00; interest; return on the portfolio calculated in accordance with the Well-Managed Account Theory; punitive

damages in the amount of \$3,872,234.00; attorneys' fees and costs; and any other relief the Panel deems appropriate.

Respondent requested that the Panel dismiss all claims with prejudice; costs, forum fees, and attorneys' fees; and such other and further relief as is just and proper in the circumstances.

### **OTHER ISSUES CONSIDERED AND 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.

### **AWARD**

After considering the pleadings, and 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. Claimants' claims are denied in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages and attorneys' fees, 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	= \$600.00
--------------------------	------------

#### **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, Prudential Equity Group, LLC f/k/a Prudential Securities, Inc. is a party.

Member surcharge	= \$3,350.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,500.00

#### **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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$ 900.00
Pre-hearing conference: February 4, 2005	1 session
October 14, 2004	1 session

One (1) Pre-hearing session with Panel @ \$1,200.00 = \$ 1,200.00  
Pre-hearing conferences: August 3, 2004 1 session

Seven (7) Hearing sessions @ \$1,200.00 = \$ 8,400.00  
Hearing Dates: March 17, 2005 2 sessions  
March 21, 2005 2 sessions  
March 22, 2005 2 sessions  
March 23, 2005 1 session

---

Total Forum Fees = \$10,500.00

1. The Panel has assessed \$5,250.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$5,250.00 of the forum fees against Respondent.

**Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
<u>Forum Fees</u>	= \$ 5,250.00
<u>Total Fees</u>	= \$ 5,850.00
<u>Less payments</u>	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 4,050.00

2. Respondent is solely liable for:

Member Fees	= \$ 9,600.00
<u>Forum Fees</u>	= \$ 5,250.00
<u>Total Fees</u>	= \$14,850.00
<u>Less payments</u>	= \$ 9,600.00
Balance Due NASD Dispute Resolution	= \$ 5,250.00

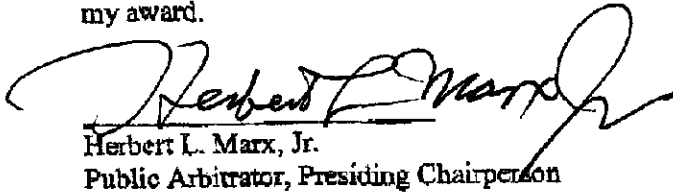
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Herbert L. Marx, Jr.	-	Public Arbitrator, Presiding Chairperson
Maria D. Cirillo	-	Public Arbitrator
Donald Raymond McNally	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
Herbert L. Marx, Jr.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Maria D. Cirillo  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Donald Raymond McNally  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

March 31, 2005  
Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

Herbert L. Marx, Jr.	-	Public Arbitrator, Presiding Chairperson
Maria D. Cirillo	-	Public Arbitrator
Donald Raymond McNally	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

\_\_\_\_\_  
Herbert L. Marx, Jr.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Maria D. Cirillo  
Public Arbitrator

3/29/05  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Donald Raymond McNally  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

March 31, 2005  
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Herbert L. Marx, Jr.	-	Public Arbitrator, Presiding Chairperson
Maria D. Cirillo	-	Public Arbitrator
Donald Raymond McNally	-	Non-Public Arbitrator

Consenting Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

\_\_\_\_\_  
Herbert L. Marx, Jr.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Maria D. Cirillo  
Public Arbitrator

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Donald Raymond McNally  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

March 31, 2005  
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)