

Award
NASD Dispute Resolution

COPY

In the Matter of the Arbitration Between:

James F. Neiderer and Ruth A. Neiderer, Claimants v. Pruco Securities, LLC, Respondent

Case Number: 04-03617

Hearing Site: San Francisco, California

Nature of the Dispute: Customers vs. Member

REPRESENTATION OF PARTIES

For Claimants:

Brett A. Alcala, Esq.
Alcala Law Firm
San Mateo, California

For Respondent:

Fred N. Knopf, Esq.
Arni Shah, Esq.
Wilson, Elser, Moskowitz, Edelman
& Dicker LLP
White Plains, New York

CASE INFORMATION

Statement of Claim filed: May 11, 2004

Claimants' Uniform Submission Agreement signed: April 29, 2004

Statement of Answer filed by Respondent Pruco Securities, LLC ("Pruco"): July 12, 2004

Respondent Pruco's Uniform Submission Agreement signed: July 12, 2004

CASE SUMMARY

Claimants alleged the following claims with respect to their investments: 1) Breach of Contract; 2) Negligence and Negligent Misrepresentation; 3) Breach of Fiduciary Duty; 4) Unsuitability; and 5) Failure to Supervise. Claimants' Claim involved investments in Prudential Utility Fund Class B, Target Large Cap Growth Fund Class B, Prudential Global Growth Fund Class B, Nicholas Applegate Growth Fund Class B, Prudential Jennison Growth Fund Class B and Prudential US Emerging Growth Fund Class B.

Respondent denied Claimants' allegations of wrongdoing and denied any liability to Claimants. Respondent also asserted affirmative defenses.

RELIEF REQUESTED

Claimants requested:

1. Compensatory damages in the amount of \$311,097.22;
2. Pre-award and post-award interest from the date of the alleged actions as allowed by law; and
3. Attorneys' fees and costs as allowed by law.

Respondent requested:

1. That Claimants' claims be dismissed in their entirety;
2. Attorneys' fees and costs; and
3. That all costs of this proceeding be assessed against the Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

On August 10, 2004, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100 the waiver of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent is liable to and shall pay Claimants the sum of \$20,000.00 in satisfaction of Claimants' claims.
- 2) Each party shall bear its own costs, including attorney's fees.
- 3) All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD-DR received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$300.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, Pruco is a party and the following fees are assessed:

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$2,750.00
<hr/> Total Member Fees	<hr/> = \$5,200.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

(1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: February 23, 2005	1 session

(6) Hearing sessions @ \$1,125.00/session	= \$6,750.00
Hearings: July 13, 2005	2 sessions
July 14, 2005	2 sessions
July 15, 2005	2 sessions

Total Forum Fees	= \$7,875.00
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The Panel assessed the \$7,875.00 in forum fees to Respondent Pruco.

Fee Summary

1. Claimants are charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Less Payments</u>	<u>= \$(1,425.00)</u>
Refund Due Claimants	= \$(1,125.00)

2. Respondent Pruco is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	<u>= \$ 7,875.00</u>
Total Fees	= \$ 13,075.00
<u>Less Payments</u>	<u>= \$(5,200.00)</u>
Balance Due NASD-DR	= \$ 7,875.00

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

ARBITRATION PANEL

Samuel I. Romano, JD	-	Public Arbitrator, Presiding Chair
Joseph M. O'Connor, P.E	-	Public Arbitrator
George C. Balling	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Samuel I. Romano, JD
Chair, Public Arbitrator

7/19/05

Signature Date

Joseph M. O'Connor, P.E
Public Arbitrator

Signature Date

George C. Balling
Non-Public Arbitrator

Signature Date

7/22/05

Date of Service

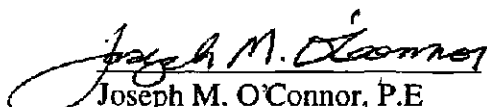
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Joseph M. O'Connor, P.E
Public Arbitrator

7-19-05
Signature Date

George C. Balling
Non-Public Arbitrator

Signature Date

7/22/05
Date of Service

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Samuel I. Romano, JD
Chair, Public Arbitrator

Signature Date

Joseph M. O'Connor, P.E
Public Arbitrator

Signature Date


George C. Balling
Non-Public Arbitrator

7/18/2005
Signature Date

7/22/05
Date of Service