

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

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In the Matter of the Arbitration Between:

Shelah Bennett (Claimant) v. Robert T. Maloney and Prudential Securities, Incorporated n/k/a Prudential Equity Group, LLC (Respondents)

Case Number: 04-03692

Hearing Site: New York City, New York

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

**REPRESENTATION OF PARTIES**

Claimant Shelah Bennett ("Bennett") hereinafter referred to as "Claimant": Mitchell B. Pollack, Esq., Law Offices of Mitchell B. Pollack, Tarrytown, NY.

Respondents Robert T. Maloney ("Maloney") and Prudential Securities, Incorporated n/k/a Prudential Equity Group, LLC ("Prudential") hereinafter collectively referred to as "Respondents": David A. Picon, Esq., Proskauer Rose LLP, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: May 20, 2004.  
Claimant signed the Uniform Submission Agreement.

Joint Statement of Answer filed by Respondents Maloney and Prudential on or about: August 19, 2004.

Respondent Maloney signed the Uniform Submission Agreement: September 15, 2004.  
Respondent Prudential signed the Uniform Submission Agreement: August 19, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action: churning, unauthorized trading, suitability, loss of bargain damages, breach of contract, and breach of fiduciary duty. The causes of action relate to municipal bonds, fixed investments, and equities, including equity mutual funds, blue chip stocks, and high-risk stocks.

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

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$2,264,593.20.

Respondents Maloney and Prudential requested that the Panel dismiss the Statement of Claim in its entirety, award Respondent Prudential costs and expenses of this arbitration, and such other and further relief as is just and proper.

### **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, 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. Respondent Prudential is liable for and shall pay to Claimant compensatory damages in the amount of \$200,000.00.
2. Respondent Maloney is liable for and shall pay to Claimant compensatory damages in the amount of \$150,000.00.
3. Any and all relief not specifically addressed herein 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	= \$ 500.00
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#### **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 is a party.

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00
Total Member Fees	= \$ 8,550.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

February 23, 2005, adjournment by Claimant = \$ 1,200.00

**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:

Four (4) Pre-hearing sessions with Panel @ \$1,200.00 = \$ 4,800.00

Pre-hearing conferences:	October 19, 2004	1 session
	November 5, 2004	1 session
	February 23, 2005	1 session
	May 18, 2005	1 session

Twelve (12) Hearing sessions @ \$1,200.00 = \$14,400.00

Hearing Dates:	March 15, 2005	2 sessions
	March 16, 2005	2 sessions
	March 23, 2005	2 sessions
	November 7, 2005	2 sessions
	November 8, 2005	2 sessions
	November 9, 2005	2 sessions

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Total Forum Fees = \$19,200.00

1. The Panel has assessed \$9,600.00 of the forum fees to Claimant.
2. The Panel has assessed \$9,600.00 of the forum fees jointly and severally to Respondents Prudential and Maloney.

**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.

1. Claimant requested copies of tapes = \$ 180.00
2. Respondents requested copies of tapes = \$ 180.00

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 500.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$ 9,600.00
<u>Administrative Costs</u>	<u>= \$ 180.00</u>
Total Fees	= \$ 11,480.00
<u>Less payments</u>	<u>= \$ 1,700.00</u>
Balance Due NASD Dispute Resolution	= \$ 9,780.00

2. Respondent Prudential is solely liable for:

<u>Member Fees</u>	= \$ 8,550.00
<u>Total Fees</u>	= \$ 8,550.00
<u>Less payments</u>	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents Maloney and Prudential are jointly and severally liable for:

Forum Fees	= \$ 9,600.00
<u>Administrative Costs</u>	= \$ 180.00
<u>Total Fees</u>	= \$ 9,780.00
<u>Less payments</u>	= \$ 750.00
Balance Due NASD Dispute Resolution	= \$ 9,030.00

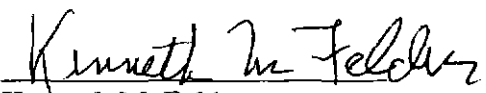
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.
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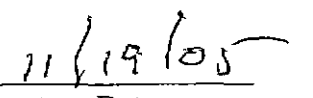
**ARBITRATION PANEL**

Kenneth M. Felder	-	Public Arbitrator, Presiding Chairperson
John P. Bannon	-	Public Arbitrator
Donald J. Rasweiler	-	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.

  
Kenneth M. Felder  
Public Arbitrator, Presiding Chairperson

  
Signature Date

\_\_\_\_\_  
John P. Bannon  
Public Arbitrator

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

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Donald J. Rasweiler  
Non-Public Arbitrator

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Signature Date

  
Date of Service (For NASD Dispute Resolution use only)

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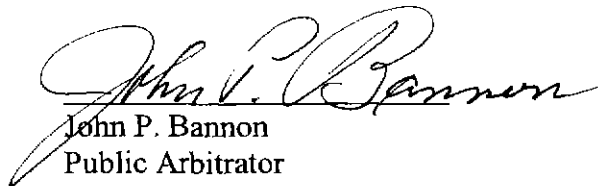
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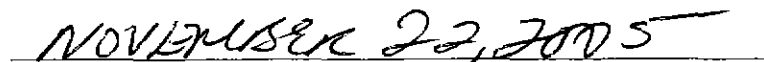
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Donald J. Rasweiler  
Non-Public Arbitrator

11-22-05  
Signature Date

November 22, 2005  
Date of Service (For NASD Dispute Resolution use only)