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**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of the Claimants

Andrew Prizzi and Lisa Prizzi

Case Number: 04-03894

Name of the Respondent

Suntrust Nature Coast, a subsidiary of  
Suntrust Bank, a Georgia Corporation

Hearing Site: Tampa, Florida

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Nature of the Dispute: Customer vs. Non-Member.

**REPRESENTATION OF PARTIES**

For Andrew Prizzi ("A. Prizzi") and Lisa Prizzi ("L. Prizzi"), hereinafter collectively referred to as "Claimants": Robert Persante, Esq., Persante & McCormack, P.A., Clearwater, Florida.

For Suntrust Nature Coast, a subsidiary of Suntrust Bank, a Georgia Corporation, hereinafter referred to as "Respondent": Charlie Luckie, Jr., Esq., Charlie Luckie, Jr., P.A., Dade City, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: June 1, 2004.

Claimants signed the Uniform Submission Agreements: September 15, 2004.

Statement of Answer filed by Respondent on or about: February 9, 2005.

Respondent signed the Uniform Submission Agreement: February 8, 2005.

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty; negligence; fraud; and, violation of Florida Statutes, including Chapter 517. The causes of action relate to the purchase and sale of various unspecified securities, including technology stocks, in Claimants' account.

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

**RELIEF REQUESTED**

Claimants requested an award of damages, as amended, in the amount of \$114,711.00, plus pre-judgment and post-judgment interest, attorneys' fees, costs, an unspecified amount of punitive damages and such other and further relief as the Panel deemed just and proper.

Respondent did not specifically delineate a relief request.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondent is not a member of NASD and did not execute a pre-dispute agreement to arbitrate. However, pursuant to the terms of the parties' joint Stipulation to Submit Cause to Arbitration Before the National Association of Securities Dealers and the ensuing Order issued by the Circuit Court of the Fifth Judicial Circuit, Hernando County, Florida Civil Division, Respondent's participation in this arbitration proceeding is mandatory and Respondent is bound by the determination of the Panel on all issues submitted.

During the evidentiary hearing, Claimants asserted an ore tenus motion to amend the Statement of Claim in order to increase the amount of compensatory damages sought to \$114,711.00, to which Respondent objected. After hearing the testimony of Claimants' expert witness on the issue of damages incurred by Claimants, the Panel granted Claimants motion to amend.

During the evidentiary hearing, Claimants asserted an ore tenus request for punitive damages to which Respondent objected.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable on the claims of breach of fiduciary duty, negligence and violation of Florida Statutes, Chapter 517, and shall pay to Claimants compensatory damages in the amount of \$114,711.00, plus pre-judgment interest in the amount of \$24,529.00. Respondent is further liable and shall pay to Claimants their costs, excluding attorneys' fees, in the amount of \$10,458.00.

The Panel finds that, as prevailing parties under Chapter 517 of the Florida Statutes, Claimants are entitled to attorneys' fees and costs. As such, the Panel refers the determination on the amount of attorneys' fees and costs not awarded herein to a court of competent jurisdiction.

The Panel finds no liability on Claimants' claim of fraud.

Claimants' request for post-judgment interest is granted in accordance with the provisions of Rule 10330(h) of the NASD Code of Arbitration Procedure (the "Code").

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages, are 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 = \$ 300.00

#### **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.

No member fees were incurred in this matter.

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed in these proceedings.

#### **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:

No three-day cancellation fees were incurred in 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.

No injunctive relief fees were incurred in 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 the Panel @ \$1,125.00/session = \$1,125.00

Pre-hearing conference: May 9, 2005 1 session

Five (5) Hearing sessions @ \$1,125.00/session = \$5,625.00

Hearing Dates: October 4, 2005 2 sessions

October 5, 2005 2 sessions

October 6, 2005 1 session

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Total Forum Fees = \$6,750.00

The Panel has assessed the total forum fees of \$6,750.00 to Respondent.

**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 are not limited to: additional copies of arbitrator awards; copies of audio transcripts; retrieval of documents from archives; interpreters; and, security.

No administrative costs were incurred in these proceedings.

**Fee Summary**

Claimants are jointly and severally liable for:

Initial Filing Fee = \$ 300.00

Total Fees = \$ 300.00

Less payments = \$ 300.00

Balance Due NASD Dispute Resolution = \$ 0.00

Respondent is solely liable for:

Forum Fees = \$6,750.00

Total Fees = \$6,750.00

Less payments = \$ 0.00

Balance Due NASD Dispute Resolution = \$6,750.00

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

**ARBITRATION PANEL**

|                            |   |  |
|----------------------------|---|--|
| Lawrence J. Gallick        | - | Public Arbitrator, Presiding Chairperson |
| Robin R. Rudicell          | - | Public Arbitrator                        |
| John R. Kiefner, Jr., Esq. | - | Non-Public Arbitrator                    |

**Concurring Arbitrators' Signatures**

/s/

10/12/05

\_\_\_\_\_  
Lawrence J. Gallick  
Public Arbitrator, Presiding Chairperson

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

/s/

10/12/05

\_\_\_\_\_  
Robin R. Rudicell  
Public Arbitrator

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

/s/

10/12/05

\_\_\_\_\_  
John R. Kiefner, Jr., Esq.  
Non-Public Arbitrator

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

October 12, 2005

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

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Lawrence J. Gallick  
Public Arbitrator, Presiding Chairperson

10-12-2005  
Signature Date

Robin R. Rudicell  
Public Arbitrator

Signature Date

John R. Kiefner, Jr., Esq.  
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Public Arbitrator

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Signature Date

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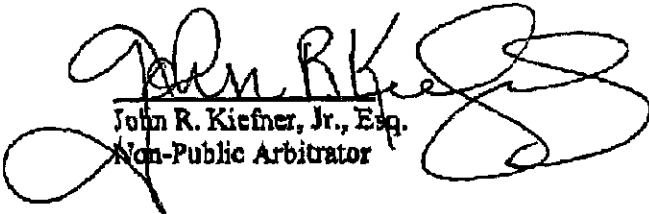
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Public Arbitrator, Presiding Chairperson

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Signature Date

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John R. Kiefner, Jr., Esq.  
Non-Public Arbitrator

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