
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 04-06645

Mr. Jaime Ros & Mrs. Ofelia Caldeyro &
Mrs. Maria O. Ros & Mrs. Maria L. Ros &
Mrs. Patricia Caldeyro, Jt. Ten.

Names of the Respondents

Hearing Site: Boca Raton, Florida

Prudential Financial, Inc., d/b/a
Prudential Securities Group, Inc., and
Prudential Equity Group, Inc.

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Mr. Jaime Ros & Mrs. Ofelia Caldeyro & Mrs. Maria O. Ros & Mrs. Maria L. Ros & Mrs. Patricia Caldeyro, Jt. Ten., hereinafter referred to as "Claimant": Richard A. Stephens, Esq., Boca Raton, Florida.

For Prudential Financial, Inc., d/b/a Prudential Securities Group, Inc., ("PSG") and Prudential Equity Group, Inc., ("PEG"), hereinafter referred to as "Respondents": Robert A. W. Boraks, Esq., Garvey Schubert Barer, Washington, DC.

CASE INFORMATION

Statement of Claim filed on or about: September 17, 2004.

Claimant signed, but did not date, the Uniform Submission Agreement.

Statement of Answer filed by Respondents on or about: May 27, 2005.

Respondents did not file signed Uniform Submission Agreements.

Emergency Motion for Default Judgment; or Alternatively, Emergency Motion to Bar Respondents from Presenting any Defenses or Arguments at the Final Hearing filed by Claimant on or about: April 13, 2005.

Response to Emergency Motion for Default Judgment, or Alternatively, Emergency Motion to Bar Respondents from Presenting any Defenses or Arguments at the Final Hearing filed by Respondents on or about: May 27, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: 1) unauthorized trading; 2) unsuitability; 3) fraudulent misrepresentation; 4) fraud; 5) Securities Exchange Act fraud; 6) violation of SEC Rule and NASD Conduct Rule; 7) negligence; 8) breach of contract; 8) breach of fiduciary duty; 9) control person liability; 10) negligent supervision; and, 11) *respondeat superior* liability. The causes of action relate to the purchase of Series "0" ScotiaBank Quilmes, S.A. notes for Claimants' account.

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 \$250,000.00 as to the Series "O" ScotiaBank Quilmes, S.A. notes, compensatory damages in the amount of \$29,266.25 as to NASDAQ 100 Trust Series 1, punitive damages in the amount of \$1,355,050.00, prejudgment interest, costs, and attorneys' fees.

Respondents requested that the Statement of Claim be dismissed in its entirety, with prejudice, and an award of expenses, reasonable attorneys' fees, and such other relief as justice may require.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

On or about June 7, 2005, the Panel issued an Order that denied Claimants' Motion for Default Judgment or Motion to Bar and further deemed Respondents' Statement of Answer duly filed as of June 8, 2005.

At the evidentiary hearing, the parties stipulated to the Panel making a determination on entitlement to and amount of attorneys' fees.

At the evidentiary hearing, Claimant made an *ore tenus* motion to conform the pleadings to the evidence. Respondents did not oppose the motion. The Panel granted the motion.

The parties have agreed that the Award in this matter may be entered in counterpart copies or that a signed handwritten 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:

Respondents are jointly and severally liable and shall pay to Claimant compensatory damages on the Series "O" ScotiaBank Quilmes, S.A. notes in the amount of \$250,000.00, plus pre-judgment interest in the amount of \$31,377.00

Claimant's claims relating to the investment in NASDAQ 100 Trust Series 1 are denied.

Respondents are jointly and severally liable and shall reimburse Claimant \$500.00 representing the claim filing

fee previously paid by Claimants to NASD Dispute Resolution.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages and the parties' requests for attorneys' fees, 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	= \$ 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.

Respondent PEG is a party to this dispute and a member of NASD:

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

Respondent PSG is a party to this dispute and was a member firm that employed the associated persons(s) at the time of the events giving rise to the dispute:

Member Surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed in this matter.

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 cancellation fees were assessed in this matter.

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 during this proceeding.

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/session	= \$	900.00
Pre-hearing conference: November 22, 2005	1 session	
December 1, 2005	1 session	

One (1) Pre-hearing session with the Panel @ \$1,200.00/session	= \$	1,200.00
Pre-hearing conference: June 3, 2005	1 session	

Seven (7) Hearing sessions with the Panel @ \$1,200.00/session	= \$	8,400.00
Hearing Dates: December 5, 2005	2 sessions	
December 6, 2005	2 sessions	
December 7, 2005	2 sessions	
December 8, 2005	1 session	

Total Forum Fees	= \$	10,500.00
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The Panel has assessed the total forum fees in the amount of \$10,500.00 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.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$	500.00
Total Fees	= \$	500.00
<u>Less payments</u>	= \$	500.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondent PSG is solely liable for:

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

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Respondent PEG is solely liable for:

<u>Member Fees</u>	= \$ 8,550.00
<u>Total Fees</u>	= \$ 8,550.00
<u>Less payments</u>	= \$ 7,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 1,550.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$10,500.00
<u>Total Fees</u>	= \$10,500.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$10,500.00

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

ARBITRATION PANEL

Donald Theodore Ryce, Jr., Esq.

-

Public Arbitrator, Presiding Chairperson

Sheldon I. Saitlin, Esq.

-

Public Arbitrator

Steven A. Hurst CFP

-

Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

Donald Theodore Ryce, Jr., Esq.
Public Arbitrator, Presiding Chairperson

December 14, 2005

Signature Date

/s/

Sheldon I. Saitlin, Esq.
Public Arbitrator

December 14, 2005

Signature Date

/s/

Steven A. Hurst CFP
Non-Public Arbitrator

December 14, 2005

Signature Date

December 15, 2005

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

Respondent PEG is solely liable for:

<u>Member Fees</u>	= \$ 8,550.00
<u>Total Fees</u>	= \$ 8,550.00
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Sheldon I. Saitlin, Esq.

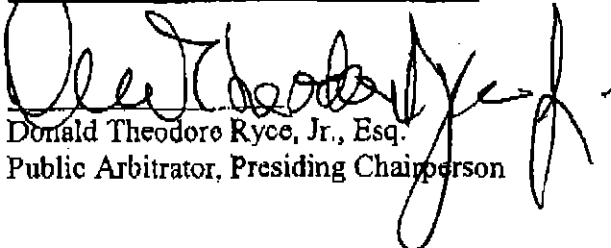
Steven A. Hurst CFP

Public Arbitrator, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

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Donald Theodore Ryce, Jr., Esq.
Public Arbitrator, Presiding Chairperson

12-14-05

Signature Date

Sheldon I. Saitlin, Esq.
Public Arbitrator

Signature Date

Steven A. Hurst CFP
Non-Public Arbitrator

Signature Date

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NASD Dispute Resolution
Arbitration No. 04-06645
Award Page 5

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Sheldon I. Saitlin, Esq.

Steven A. Hurst CFP

- Public Arbitrator, Presiding Chairperson

- Public Arbitrator

- Non-Public Arbitrator

Concurring Arbitrators' Signatures

Donald Theodore Ryce, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Sheldon I. Saitlin, Esq.
Public Arbitrator

12/14/05
Signature Date

Steven A. Hurst CFP
Non-Public Arbitrator

Signature Date

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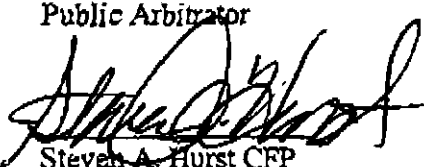
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Public Arbitrator

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