

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

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In the Matter of the Arbitration Between:

Paul and Margita Dzatko Trustees  
of the Paul and Margita Dzatko Revocable Trust  
Claimant,

Case Number: 05-01295

v.

Prudential Equity Group, LLC and  
John D. Buck,  
Respondents.

Hearing Site: St. Louis, Missouri

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

**REPRESENTATION OF PARTIES**

Paul and Margita Dzatko, Trustees of the Paul and Margita Dzatko Revocable Trust (the "Dzatkos"), hereinafter referred to as "Claimants": J. Christopher Wehrle, Esq. of Goldberg Wehrle, LLC located in St. Louis, Missouri.

Prudential Equity Group, LLC ("Prudential") and John D. Buck ("Buck"), hereinafter collectively referred to as "Respondents": Jeffrey L. Squires, Esq. of Garvey Schubert Barer located in Washington, DC.

**CASE INFORMATION**

Statement of Claim filed on or about: March 11, 2005

The Dzatkos jointly signed the Uniform Submission Agreement: November 10, 2004

Statement of Answer filed by Respondents, Prudential and Buck, on or about: May 11, 2005

Respondent Prudential signed the Uniform Submission Agreement: May 10, 2005

Respondent Buck signed the Uniform Submission Agreement: April 30, 2005

**CASE SUMMARY**

Claimants asserted the following causes of action: negligence, failure to supervise, breach of fiduciary duty and suitability. The causes of action relate to unspecified securities and unsuitable and inappropriate mortgage loans to cover losses in their account. Claimants asserted that the investments were speculative and aggressive in nature and were high risk and inappropriate investments for them.

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

1. Claimants' Statement of Claim fails to allege facts entitling them to any relief or remedy.
2. Claimants' claims are barred by their own inequitable conduct.

3. Claimants' claims are barred in whole or in part by applicable statutes of limitations.
4. Claimants' claims are barred under principles of waiver and estoppel.
5. To the extent any losses were incurred in Claimants' account, such losses were the result of Claimants' choices and market forces over which Respondents had no control.
6. Prudential exercised reasonable care in supervising the registered representatives who managed Claimants' account.
7. Claimants' claims are barred by reason of their own unclean hands.
8. Claimants failed to take actions to mitigate their damages.

### **RELIEF REQUESTED**

Claimants requested \$1,000,000.00 in compensatory damages; punitive damages; attorney's fees and costs; and for other relief as is just and proper.

Respondents, Prudential and Buck, requested that Claimants' claims be denied in their entirety.

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

During the hearing, Respondents Prudential and Buck made an oral motion to dismiss as to damages resulting from the real estate loans. After hearing the parties' arguments, the Panel denied Respondents' motion.

### **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. Respondents, Prudential Equity Group, LLC and John D. Buck, are jointly and severally liable for and shall pay Claimants, Paul and Margita Dzatko, Trustees for the Paul and Margita Dzatko Revocable Trust, the sum of \$75,000.00 as compensatory damages.
2. For the intentional and continuous disregard of compliance, record keeping, suitability and supervisory requirements, all in violation of Prudential's Compliance Manual and of industry standards, Respondents, Prudential Equity Group, LLC and John D. Buck, are jointly and severally liable for and shall pay Claimants, Paul and Margita Dzatko, Trustees for the Paul and Margarit Dzatko Revocable Trust the sum of \$175,000.00 as punitive damages. In deciding to award punitive damages, the Panel considered the pleadings filed by counsel, as well as the arguments presented on behalf of the parties, and determined that authority existed for an award of punitive damages to the Claimants.
3. Except as otherwise specified herein, parties shall bear their own costs, including attorneys' fees.
4. Any and all relief not specifically addressed herein, including 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 = \$ 375.00

**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, is a party and is assessed the following fees:

Member surcharge = \$ 2,250.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$ 4,000.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

December 6-9, 2005, adjournment by Claimants = \$ 1,200.00  
(Fee assessed to Respondent Prudential per the Panel's Order of December 2, 2005)

**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:

December 6-9, 2005, adjournment by Claimants = \$ 300.00

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Decision on discovery-related motions on the papers  
with one (1) arbitrator @ \$200.00 = \$ 200.00  
Claimant submitted one (1) discovery-related motion

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00  
Pre-hearing conference: November 23, 2005 1 session

Three (3) Pre-hearing sessions with Panel @ \$1,200.00 = \$ 3,600.00  
Pre-hearing conferences: August 10, 2005 1 session  
November 29, 2005 1 session  
January 5, 2006

Six (6) Hearing sessions @ \$1,200.00 = \$ 7,200.00  
Hearing Dates: June 12, 2006 2 sessions  
June 13, 2006 2 sessions  
June 14, 2006 2 sessions

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Total Forum Fees = \$11,450.00

1. The Panel has assessed 100% of the total forum fees in the amount of \$11,450.00 jointly and severally to Respondents, Prudential Equity Group, LLC and John D. Buck.

**Fee Summary**

1. Claimants, Paul and Margita Dzatko, are jointly liable for:

Initial Filing Fee	≈ \$ 375.00
Three-Day Cancellation Fee	≈ \$ 150.00
Total Fees	≈ \$ 525.00
Less payments	≈ \$ 1,575.00
Refund Due from NASD Dispute Resolution	≈ \$ 1,050.00

2. Respondent, Prudential Equity Group, LLC, is solely liable for:

Member Fees	≈ \$ 7,000.00
Adjournment Fee	≈ \$ 1,200.00
Total Fees	≈ \$ 8,200.00
Less payments	≈ \$ 8,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents, Prudential Equity Group, LLC and John D. Buck, are jointly and severally liable for:

Three-Day Cancellation Fee	= \$ 150.00
Forum Fees	= \$11,450.00
Total Fees	= \$11,600.00
Less payments	= \$ 150.00
Balance Due NASD Dispute Resolution	= \$11,450.00

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

**ARBITRATION PANEL**

Raymond R. Hirsch, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert G. Haddenhorst, Sr.	-	Public Arbitrator
Betty R. Crumpton	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/ Raymond R. Hirsch, Esq.  
Raymond R. Hirsch, Esq.  
Public Arbitrator, Presiding Chairperson

6/21/06  
Signature Date

/s/ Robert G. Haddenhorst, Sr.  
Robert G. Haddenhorst, Sr.  
Public Arbitrator

6/23/06  
Signature Date

/s/ Betty R. Crumpton  
Betty R. Crumpton  
Non-Public Arbitrator

6/21/06  
Signature Date

6/21/06  
Date of Service (For NASD Dispute Resolution use only)

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Robert G. Haddenhorst, Sr.	-	Public Arbitrator
Betty R. Crumpton	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
 Raymond R. Hirsch, Esq.  
 Public Arbitrator, Presiding Chairperson

6/21/06  
 Signature Date

Robert G. Haddenhorst, Sr.  
 Public Arbitrator

Signature Date

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\_\_\_\_\_  
Raymond R. Hirsch, Esq.  
Public Arbitrator, Presiding Chairperson

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

*Robert G. Haddenhorst, Sr.*  
Robert G. Haddenhorst, Sr.  
Public Arbitrator

*23 June 2006*  
Signature Date

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Betty R. Crompton  
Non-Public Arbitrator

6-21-06  
Signature Date

Date of Service (For NASD Dispute Resolution use only)