

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

**Claimant**

Michael D. Sullivan

and

Case Number: 05-01841  
Hearing Site: Troy, Michigan

**Respondents**

Prudential Equity Group, Inc.,  
f/k/a Prudential Securities, Inc.,  
and Gregory R. Anderson

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**NATURE OF DISPUTE**

Customer v. Member and Associated Person

**REPRESENTATION OF PARTIES**

Michael D. Sullivan ("Claimant") was represented by Anthony V. Trogan, Esq., Law Offices of Anthony V. Trogan PLLC, West Bloomfield, Michigan.

Prudential Equity Group, Inc., f/k/a Prudential Securities, Inc. ("Prudential") and Gregory R. Anderson ("Anderson"), hereinafter collectively referred to as "Respondents," were represented by Francis W. Manning, Esq., Stradley Ronan Stevens & Young LLP, Cherry Hill, New Jersey.

**CASE INFORMATION**

The Statement of Claim was filed on or about April 11, 2005. The Submission Agreement of Michael D. Sullivan was signed without date.

The Statement of Answer was filed jointly by Respondents on or about June 28, 2005. The Submission Agreement of Prudential was signed on or about July 1, 2005, by Patrick Gaffney, Sr. V.P. and Corporate Counsel. The Submission Agreement of Anderson was signed on or about July 6, 2005.

### **CASE SUMMARY**

Claimant asserted the following legal theories in support of his claim: breach of contract; common law fraud; conspiracy; promissory estoppel; negligence, malpractice; breach of fiduciary duty; and breach of Michigan securities law. The causes of action related to the recommendation and sale and of high risk tech stocks and penny shares on margin, and the shorting of these same stocks in Claimant's accounts. Claimant further alleged that Respondents recommended and sold Claimant put and call options for these stocks. The securities involved included America On Line, Cisco, Echostar, IBM and Lucent. Claimant asserted that Respondents' handling of his account was in contravention of his conservative investment goals and strong aversion to risk.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: to the extent Claimant suffered any losses, these losses were due solely to market conditions and extraordinary events beyond the control of Respondents; Claimant's claims may be barred, in whole or in part, by the applicable statute(s) of limitations; Claimant authorized and directed all acts of which he complains and therefore is estopped from seeking damages from Respondents; and Claimant, by his acts or omissions, has ratified any actions of Respondents that are allegedly unsuitable or unauthorized.

### **RELIEF REQUESTED**

Claimant requested:

Compensatory damages	\$ 268,000.00
Punitive/Exemplary Damages	\$ unspecified
Interest	\$ unspecified
Attorneys' Fees	\$ unspecified
Other Costs	\$ unspecified
Other Monetary/Non-Monetary Relief	\$ unspecified

Respondents requested that the claims asserted against them be dismissed in their entirety.

### **OTHER ISSUES CONSIDERED & 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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondents, Prudential Equity Group, Inc., f/k/a Prudential Securities, Inc., and Gregory R. Anderson, are jointly and severally liable for and shall pay to Claimant, Michael D. Sullivan, the sum of \$97,000.00 in compensatory damages;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3.) Any relief not specifically enumerated, including punitive/exemplary damages and attorneys' fees, is hereby denied with prejudice.

### **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. In this matter, the member firm is Prudential Equity Group, Inc., f/k/a Prudential Securities, Inc.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

#### **Forum Fees and Assessments**

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

One (1) Pre-hearing session with Panel x \$1,125.00	= \$ 1,125.00
Pre-hearing conference: September 21, 2005	1 session
Four (4) Hearing sessions x \$1,125.00	= \$ 4,500.00
Hearing Dates: June 14, 2006	2 sessions
June 15, 2006	2 sessions
Total Forum Fees	= \$ 5,625.00

The Arbitration Panel has assessed \$2,812.50 of the forum fees to Michael D. Sullivan.

The Arbitration Panel has assessed \$2,812.50 of the forum fees jointly and severally to Prudential Equity Group, Inc., f/k/a Prudential Securities, Inc., and Gregory R. Anderson.

### **Fee Summary**

Claimant, Michael D. Sullivan, is liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 3,112.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 1,687.50

Respondent, Prudential Equity Group, Inc., f/k/a Prudential Securities, Inc., is liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Prudential Equity Group, Inc., f/k/a Prudential Securities, Inc., and Gregory R. Anderson, are jointly and severally liable for:

Forum Fees	= \$ 2,812.50
Total Fees	= \$ 2,812.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 2,812.50

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

**ARBITRATION PANEL**

Barry Goldman, Esq. – Public Arbitrator, Presiding Chair  
John M. Collins - Public Arbitrator  
Patrick A. Guentner - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Barry Goldman, Esq.  
Barry Goldman, Esq.  
Public Arbitrator, Presiding Chair

06/17/06  
Signature Date

/s/ John M. Collins  
John M. Collins  
Public Arbitrator

06/16/06  
Signature Date

/s/ Patrick A. Guentner  
Patrick A. Guentner  
Non-Public Arbitrator

06/19/06  
Signature Date

06/19/06  
Date of Service (For NASD office use only)

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Award - \$0.00

ARBITRATION PANEL

Barry Goldman, Esq. - Public Arbitrator, Presiding Chair

John M. Collins - Public Arbitrator

Patrick A. Guenther - Non-Public Arbitrator

## Concurring Arbitrators

Barry Goldman, Esq.  
Public Arbitrator, Presiding Chair

*John M. Collins*  
John M. Collins  
Public Arbitrator

Signature Date

*06-16-06*  
Signature Date

Patrick A. Guenther  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

JUN 17 06 10:00  
06/16/2006 12:08 FAX

NASD

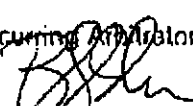
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ARBITRATION PANEL

Barry Goldman, Esq. - Public Arbitrator, Presiding Chair  
John M. Collins - Public Arbitrator  
Patrick A. Guentner - Non-Public Arbitrator

Concurring Arbitrators:

  
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Barry Goldman, Esq.  
Public Arbitrator, Presiding Chair

6/17/06  
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Signature Date

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John M. Collins  
Public Arbitrator

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

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Non-Public Arbitrator

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Signature Date

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NASD Dispute Resolution  
Arbitration No. 05-01841  
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ARBITRATION PANEL

Barry Goldman, Esq. -- Public Arbitrator, Presiding Chair  
John M. Collins - Public Arbitrator  
Patrick A. Guentner - Non-Public Arbitrator


Concurring Arbitrators:

\_\_\_\_\_  
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Public Arbitrator, Presiding Chair

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