

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

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In the Matter of the Arbitration Between:

Name of Claimant

James T. Ryan, IRA DTD 5/5/2000

vs.

Case Number: 05-03698  
Hearing Site: Chicago, Illinois

Name of Respondent

Prudential Equity Group, LLC f/k/a Prudential Securities, Inc.

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**NATURE OF THE DISPUTE**

Customer vs. Member

**REPRESENTATION OF PARTIES**

James T. Ryan, IRA DTD 5/5/2000 ("Claimant") was represented by James J. Eccleston, Esq. and April Lindauer, Esq., Shaheen, Novoselsky, Staat, Filipowski & Eccleston, PC, Chicago, Illinois.

Prudential Equity Group, LLC f/k/a Prudential Securities, Inc. ("Respondent" or "Prudential") was represented by Alan S. Brodherson, Esq., New York, New York.

**CASE INFORMATION**

The Statement of Claim was filed on or about July 19, 2005. The Submission Agreement of Claimant, James T. Ryan, IRA DTD 5/5/2000, was signed on or about July 13, 2005.

The Statement of Answer was filed by Respondent, Prudential Equity Group, LLC f/k/a Prudential Securities, Inc., on or about September 13, 2005. The Submission Agreement of Respondent, Prudential Equity Group, LLC f/k/a Prudential Securities, Inc., was signed on or about September 19, 2005.

**CASE SUMMARY**

Claimant asserted the following causes of action: violations of Federal and State Securities Laws; Illinois Consumer Fraud and Deceptive Business Practices Act; breach of fiduciary duty; negligence; breach of contract; failure to supervise; and respondeat superior. Claimant alleged that Prudential mishandled the IRA account by concentrating the assets into aggressive equities as well as that the investments were unsuitable in light

of Claimant's age and financial situation. Claimant further alleged that Respondent failed to diversify the assets out of high risk, growth-oriented investments into lower risk investments, such as fixed income investments.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim failed to state a claim upon which relief may be granted; Claimant's causes of action are barred by the doctrines of ratification, waiver, and estoppel; and in light of Claimant's financial condition, investment objectives, experience, portfolio composition and communications with Respondent, Respondent had reasonable grounds for believing the securities recommendations were suitable.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$289,424.06
Punitive/Exemplary Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondent requested that the claims asserted against it be dismissed in their entirety and that it be awarded its costs and attorneys' fees.

### **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.

### **AWARD**

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

- 1.) Claimant's claims, each and all, are hereby denied and dismissed with prejudice;
- 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 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 the non-refundable filing fee 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, LLC 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 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, 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: December 1, 2005	1 session	
Seven (7) Hearing sessions x \$1,125.00		= \$ 7,875.00
Hearing Dates: September 19, 2006	3 sessions	
September 20, 2006	2 sessions	
September 21, 2006	2 sessions	
Total Forum Fees		= \$ 9,000.00

The Panel has assessed \$4,500.00 of the forum fees to James T. Ryan, IRA DTD 5/5/2000.

The Panel has assessed \$4,500.00 of the forum fees to Prudential Equity Group, LLC f/k/a Prudential Securities, Inc.

**FEE SUMMARY**

Claimant, James T. Ryan, IRA DTD 5/5/2000, is liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 4,500.00
Total Fees	= \$ 4,800.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 3,375.00

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

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 4,500.00
Total Fees	= \$ 9,700.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 4,500.00

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

**ARBITRATION PANEL**

Adrian E. Mazar - Public Arbitrator, Presiding Chair  
Cynthia R. Lyons, Esq. - Public Arbitrator  
Doris H. Geck - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

/s/ Adrian E. Mazar  
Adrian E. Mazar  
Public Arbitrator, Presiding Chair

October 19, 2006  
Signature Date

/s/ Cynthia R. Lyons, Esq.  
Cynthia R. Lyons, Esq.  
Public Arbitrator

October 17, 2006  
Signature Date

/s/ Doris H. Geck  
Doris H. Geck  
Non-Public Arbitrator

October 17, 2006  
Signature Date

October 17, 2006  
Date of Service (For NASD office use only)

**ARBITRATION PANEL**

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Cynthia R. Lyons, Esq. - Public Arbitrator  
Doris H. Geck - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

Adrian E. Mazar  
Adrian E. Mazar  
Public Arbitrator, Presiding Chair

10-19-06  
Signature Date

Cynthia R. Lyons, Esq.  
Cynthia R. Lyons, Esq.  
Public Arbitrator

Signature Date

Doris H. Geck  
Doris H. Geck  
Non-Public Arbitrator

Signature Date

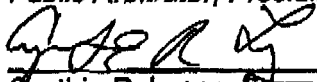
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Public Arbitrator, Presiding Chair

  
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Public Arbitrator

Doris H. Geck  
Non-Public Arbitrator

Signature Date

10-17-06  
Signature Date

Signature Date

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Public Arbitrator

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Doris H. Geck  
Non-Public Arbitrator

10/17/2006  
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Signature Date

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Date of Service (For NASD office use only)