

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

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In the Matter of the Arbitration Between:

Charles Cuozzo, Jr. (Claimant) vs. Prudential Investment Management Services, LLC  
and Prudential Insurance Company of America (Respondents)

Case Number: 05-04620

Hearing Site: New York, New York

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Nature of the Dispute: Associated Person vs. Members.

**REPRESENTATION OF PARTIES**

Claimant Charles Cuozzo, Jr. hereinafter referred to as "Claimant": Kevin P. Conway, Esq., Conway & Conway, New York, NY.

Respondents Prudential Investment Management Services, LLC ("Prudential Investment") and Prudential Insurance Company of America ("Prudential Insurance"), hereinafter collectively referred to as "Respondents": Thomas Kaualer, Esq., and Janet A. Beer, Esq., Cahill Gordon & Reindel LLP, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: September 2, 2005.

Claimant signed the Uniform Submission Agreement: August 18, 2005.

Statement of Answer filed by Respondents on or about: November 30, 2005.

Respondent Prudential Investment signed the Uniform Submission Agreement: November 29, 2005.

Respondent Prudential Insurance signed the Uniform Submission Agreement: December 14, 2005.

**CASE SUMMARY**

Claimant asserted the following causes of action: indemnification, common law fraud and deceit, negligent misrepresentation, breach of covenant of good faith and fair dealing in employment contract. The causes of action relate to the parties' employment relationship.

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 unspecified compensatory and punitive damages, reasonable

attorneys' fees and expenses and such other and further as the Panel deems just and fair.

Respondents requested the dismissal of the Statement of Claim in its entirety.

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

At the close of the presentation of Claimant's opening statement, Respondents moved to dismiss the Claimant's claims based upon the failure to state a cause of action. The Panel deferred decision until the conclusion of Claimant's case in chief. Respondents renewed the Motion after Claimant concluded his case. After due deliberation, the Panel granted the Motion.

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 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 are dismissed in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, is 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	= \$ 250.00
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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 firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Prudential Investment Management Services, LLC and Prudential Insurance Company of America are parties.

<u>Prudential Investment Management Services, LLC</u>	
Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,200.00

<u>Prudential Insurance Company of America</u>	
Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00

Hearing process fee = \$2,200.00

**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, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00  
Pre-hearing conference: June 1, 2006 1 session

One (1) Pre-hearing session with Panel @ \$1,000.00 = \$1,000.00  
Pre-hearing conference: February 22, 2006 1 session

Six (6) Hearing sessions @ \$1,000.00 per session = \$6,000.00  
Hearing Dates: July 6, 2006 2 sessions  
July 10, 2006 2 sessions  
August 3, 2006 2 sessions

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Total Forum Fees = \$7,450.00

1. The Panel has assessed \$3,725.00 of the forum fees to Claimant.
2. The Panel has assessed \$3,725.00 of the forum fees jointly and severally to Respondents.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$3,725.00
Total Fees	= \$3,975.00
Less payments	= \$1,250.00
Balance Due NASD Dispute Resolution	= \$2,725.00

2. Respondent Prudential Investment is solely liable for:

Member Fees	= \$4,450.00
Total Fees	= \$4,450.00
Less payments	= \$4,450.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent Prudential Insurance is solely liable for:

Forum Fees	= \$4,450.00
Total Fees	= \$4,450.00
Less payments	= \$2,250.00
Balance Due NASD Dispute Resolution	= \$2,200.00

4. Respondents Prudential Investment and Prudential Insurance are jointly and severally liable for:

Forum Fees	= \$3,725.00
Total Fees	= \$3,725.00

<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$3,725.00

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

**ARBITRATION PANEL**

Edward Baer, Esq.	-	Public Arbitrator, Presiding Chairperson
Edward W. Morris, Jr.	-	Public Arbitrator
Neil G. Gargiulo	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

**Concurring Arbitrators' Signatures**



Edward Baer, Esq.  
Public Arbitrator, Presiding Chairperson

8-4-06

Signature Date

Edward W. Morris, Jr.  
Public Arbitrator

Signature Date

Neil G. Gargiulo  
Non-Public Arbitrator

Signature Date

**August 9, 2006**

Date of Service (For NASD Dispute Resolution use only)

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Public Arbitrator, Presiding Chairperson

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Signature Date

  
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Edward W. Morris, Jr.  
Public Arbitrator

08/03/06  
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Signature Date

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Non-Public Arbitrator

8-4-04  
Signature Date

**August 9, 2006**

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Date of Service (For NASD Dispute Resolution use only)