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N.A.S.D. AMENDED AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

\* Prudential Securities Inc.

93-05280

Name of Respondents

Dunhill Equities, Inc.  
Meridian Associates, Inc.  
Meridian, Dunhill & Co., Inc.  
Joseph G. Chiulli

REPRESENTATION

For Claimant: Eric Reider, Esq., of Robinson Silverman Pearce Aronsohn & Berman, New York, New York.

For Respondents: Respondents did not appear at the hearing.

CASE INFORMATION

Statement of Claim filed: December 20, 1993.

Amended Statement of Claim filed: October 31, 1994.

Claimant's Submission Agreement signed on: December 20, 1993.

Statement of Answer filed by Respondent Dunhill Equities, Inc. on: March 14, 1994.

Respondent Dunhill Equities, Inc.'s Submission Agreement signed on: March 15, 1994.

Statement of Answer filed by Respondent Meridian Associates, Inc.'s on: Respondent Meridian Associates, Inc. did not file a Statement of Answer as required pursuant to Section 25(b)(1) of the NASD Code of Arbitration Procedure.

Respondent Meridian Associates, Inc.'s Submission Agreement signed on: Respondent Meridian Associates, Inc. did not file a Submission Agreement as required pursuant to Section 25(b)(1) of the NASD Code of Arbitration Procedure.

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Statement of Answer filed by Respondent Meridian Dunhill & Co., Inc. on: Respondent Meridian Dunhill & Co., Inc. did not file a Statement of Answer as required pursuant to Section 25(b)(1) of the NASD Code of Arbitration Procedure.

Respondent Meridian Dunhill & Co., Inc.'s Submission Agreement signed on: Respondent Meridian Dunhill & Co., Inc. did not file a Submission Agreement as required pursuant to Section 25(b)(1) of the NASD Code of Arbitration Procedure.

Statement of Answer filed by Respondent Joseph G. Chiulli on: Respondent Joseph G. Chiulli did not file a Statement of Answer as required pursuant to Section 25(b)(1) of the NASD Code of Arbitration Procedure.

Respondent Joseph G. Chiulli's Submission Agreement signed on: Respondent Joseph G. Chiulli did not file a Submission Agreement as required pursuant to Section 25(b)(1) of the NASD Code of Arbitration Procedure.

#### **HEARING INFORMATION**

Hearing Dates / Sessions: April 12, 1995 / One Session.

Hearing Location: Offices of the National Association of Securities Dealers, Inc.  
located at 33 Whitehall Street, New York, New York.

#### **CASE SUMMARY**

Claimant alleged that on or about October 1, 1991 Prudential entered into a Master Selected Dealer Agreement ("Agreement") with Dunhill under which Dunhill acted as a dealer for public securities offerings where Prudential was the Lead Manager. Claimant further alleged that the Agreement plainly provided for the imposition of a penalty by the Lead Manager on dealers who, during a certain period after the offering date, sell securities originally received from the Lead Manager on the closing of the offering, and those same securities are repurchased by the Lead Manager in its aftermarket/short-covering activities.

Claimant alleged that on May 1, 1992 Prudential served as Lead Manager for the initial public offering of H&Q Life Sciences Investors ("HQL"), and that Dunhill participated as a member of the dealer group. Claimant further alleged that on May 1, 1992 Prudential distributed 180,000 shares of HQL to Dunhill with a selling concession of \$.70 per share. Claimant next alleged that on or about June 2, 1992, while the penalty period was still in effect, Prudential purchased in its syndicate account the 180,000 shares of HQL that had been originally distributed to Dunhill. Claimant further alleged that on July 22, 1992 it issued a notice to Dunhill that Prudential had repurchased the shares originally issued to Dunhill during the penalty period and that pursuant to the Agreement, demanded Dunhill repay the selling concession.

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Claimant alleged that on April 23, 1992 Prudential acted as Lead Manager in the offering of securities of the Blackstone Investment Quality Term Trust ("Blackstone") and that pursuant to the Agreement Dunhill received 201,000 shares with a selling concession of \$.40 per share. Prudential alleged that it repurchased 29,000 shares of Blackstone, originally issued to Dunhill, during the penalty period. Claimant further alleged that on July 22, 1992 it issued notice to Dunhill that it repurchased the Blackstone shares and pursuant to the Agreement demanded Dunhill repay the selling concession. Claimant further alleged that Dunhill and its representatives never disputed Dunhill's liability for Claimant's claims but nevertheless failed to pay the amount owed or to provide reasons for non-payment.

Claimant, in its amended Statement of Claim, alleged that Respondent Joseph G. Chiulli ("Chiulli") was at all material times the controlling shareholder of Dunhill and exercised complete control and dominion over Dunhill such that Dunhill was a mere instrumentality of Chiulli's and was his alter-ego and as such Chiulli was responsible for Dunhill's debts. Claimant further alleged that in or about October 1994 Chiulli caused Dunhill to merge with Meridian Associates to form Meridian Dunhill and that Jack Wolf, president of Meridian Associates and Chairman of Meridian Dunhill, stated to the Claimant that the merger involved the purchase of assets but not liabilities. Claimant alleged that any conveyance by Chiulli and Dunhill to Meridian Associates and/or Meridian Dunhill was a fraudulent conveyance pursuant to the New York Debtor Creditor Law.

Respondent Dunhill maintained that it did not violate the Agreement and that the Agreement did not provide for a penalty. Respondent Dunhill further maintained that Prudential suffered no damage as a result of its repurchase of securities and therefore a penalty would have been unenforceable. Respondent also maintained that the Agreement only provided for repayment of the selling concession if Prudential covered any short position created by it in connection with the offering and that the securities sold back to Prudential by Dunhill were not sold to cover any short position.

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**RELIEF REQUESTED**

Claimant requested:

1. An award against Respondents jointly and severally granting Prudential the sum of \$137,600.
2. Interest.
3. Reasonable attorneys' fees.
4. Plus any such other compensatory damages proven at the hearing.

Respondent Dunhill requested:

1. Respondent Dunhill made no relief request in its answer.

**OTHER ISSUES CONSIDERED & DECIDED**

The arbitration panel made the following rulings concerning Respondents Chiulli, Dunhill, Meridian Associates and Meridian Dunhill who failed to appear at the hearings conducted in this matter:

1. Pursuant to Section 1 of the NASD Code of Arbitration Procedure, the panel found subject matter jurisdiction over this entire controversy.
2. The panel found that the Respondents Chiulli and Dunhill were members of the NASD at the time the controversy arose. Consequently, the panel found personal jurisdiction over Respondents Chiulli and Dunhill pursuant to Section 12 of the NASD Code of Arbitration Procedure. The panel also found that Meridian Associates, Inc. was a member of the NASD at the time the controversy arose. The panel also found that Meridian Associates, Inc. was a member of the NASD when it purchased the assets of Dunhill. The panel next found that Meridian Associates, Inc. then changed its name to Meridian, Dunhill & Co., Inc. Consequently, the panel found personal jurisdiction over Respondents Meridian Associates and Meridian Dunhill.
3. In view of (2) above, the panel found that the Statement of Claim and Amended Statement of Claim were properly served upon the Respondents via certified mail, pursuant to Section 25(a) of the Code.

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4. In addition, in accordance with Sections 21, 26 and 29 of the NASD Code of Arbitration Procedure, the panel found that the NASD provided Respondents with "due notice" of the hearing conducted in this matter by regular and certified mail. The panel, therefore, determined to proceed with the hearing without Respondents whose absence was unexcused.

Claimants, during the hearing, stated that a bankruptcy filing by Meridian Associates and Meridian Dunhill had been dismissed by the Bankruptcy Court of Central Florida. The arbitration panel determined that, based upon Claimant's representation, that Meridian Associates and Meridian Dunhill were Respondents in this matter.

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 originals remain on file with the 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 are liable jointly and severally and shall pay to Claimant the sum of \$137,600.
2. Respondents are liable jointly and severally and shall pay to Claimant interest at the rate of 9% per year from August 1, 1992 to April 12, 1995.
3. Respondents are liable jointly and severally and shall pay to Claimant the sum of \$20,000 representing attorneys' fees.
4. Respondents are liable jointly and severally and shall pay to Claimant the sum of \$1,250 as reimbursement for forum fees paid by Claimant.

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**FORUM FEES**

Pursuant to Section 44c of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed.

Claim Filing Fee = \$500.

1 session X \$750 = \$750.

Total Forum Fees = \$1,250.

Forum fees Assessed Against:

1. Respondents are assessed jointly and severally the sum of \$1,250 which represents the total forum fees due, less \$1,250 reimbursement paid to Claimant, leaving \$0 due.

Fees are payable to the National Association of Securities Dealers, Inc.

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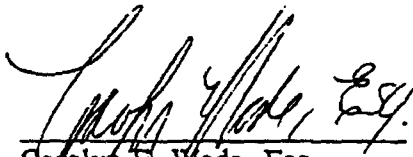
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Concurring Arbitrators' Signatures

Name

Public Chairperson

  
Carolyn E. Wade, Esq.

\_\_\_\_\_

Name

Industry Panelist

\_\_\_\_\_  
Fred M. Stone, Esq.

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Name

Industry Panelist

\_\_\_\_\_  
Dean E. Kois

\_\_\_\_\_

Date of Decision: June 28, 1995

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Name

Public Chairperson

\_\_\_\_\_  
Carolyn E. Wade, Esq.

\_\_\_\_\_

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Name

Public Chairperson

Carolyn E. Wade, Esq.

Name

Industry Panelist

Fred M. Stone, Esq.

Name

Industry Panelist

Dean E. Kois

July 20, 1995

Date of Decision: June 28, 1995