

9708040

**AWARD**

**NASD REGULATION INC., OFFICE OF DISPUTE RESOLUTION**

In the matter of the Arbitration Between

**Name of Claimant**

Douglas C. Johnston

v.

Arbitration No.  
95-04616

**Name of Respondent**

Prudential Securities, Incorporated

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**REPRESENTATION**

**For Claimant:**

J. Leo Federman  
Investor's Rights Association, Inc.  
Santa Barbara, California

**For Respondent:**

Mr. William M. Cassarini, Esq.  
Prudential Securities, Inc.  
General Counsel's Office  
New York, New York

**CASE INFORMATION**

Statement of Claim filed:	November 27, 1995
Amended Statement of Claim filed:	March 18, 1997
Claimant's Submission Agreement filed:	September 13, 1995
Statement of Answer filed by Respondent:	On or about January 17, 1997
Respondent's Submission Agreement signed:	January 17, 1997

**HEARING INFORMATION**

Pre-Hearing Conference Date(s)/Sessions(s): July 29, 1996 (1 session)  
 December 18, 1996 (1 session)  
 February 20, 1997 (1 session)  
 July 14, 1997 (1 session)

Hearing Dates/Sessions: July 21, 1997 (2 sessions)

Hearing Location: Los Angeles, California

**CASE SUMMARY**

Claimant alleged Respondents committed misrepresentation, omission of material facts, breach of fiduciary duty and failure to supervise regarding the purchase of securities on behalf of Claimant.

Respondent generally and specifically denied all substantive allegations in Claimant's Statement of Claim.

**RELIEF REQUESTED**

Claimant sought the following relief:

- (1) For rescission of some or all the investment interests, as may be applicable;
- (2) For an award of compensatory damages caused as a result of economic losses, less distributions received as a result of the investment, and according to proof at the arbitration hearing;
- (3) Pre-award and post-award interest from the date of each investment at issue, according to proof at the arbitration hearing;
- (4) For costs of arbitration and expenses, including but not limited to, reasonable attorney's fees, consulting fees, expert witness fees, if applicable and as allowed, and for any other costs deemed reasonable and just;
- (5) For punitive damages and exemplary damages in a sum sufficient to properly punish and make an example of Respondents as allowed (See Mastrobuono v. Shearson Lehman Hutton, Inc. (1995) 115 S. Ct. 1212); said sum to be determined by the panel or arbitrators; and,
- (6) For such other and further relief as the arbitrators deem just and equitable.

Respondent sought the Statement of Claim be dismissed in its entirety and that judgment be rendered in favor of Respondent.

**OTHER ISSUES CONSIDERED AND DECIDED**

The parties have agreed that the Award in this matter may be executed in either 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 remains on file with the NASD Regulation, Inc. Office of Dispute Resolution.

**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) All claims against Respondent Prudential Securities, Inc. are denied.

**FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed against Claimant:

Four (4) Full Panel Pre-Hearing Conferences @ \$400.00/Session	= \$1,600.00	(4) Full Panel Pre
Two (2) Hearing Sessions @ \$400.00/Session	= \$800.00	(2) Hearing Sessi
Total Forum Fees Assessed	= \$2,400.00	Forum Fees Ass
Claimant's Amount Owed	= \$2,400.00	Claimant's Amount O
Claimant's Credit for Hearing Session Deposit	= \$400.00	Claimant's Credit for
Claimant's Balance Due	= \$2,000.00	Claimant's Balance Du

Fees are payable to NASD Regulation, Inc.

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**ARBITRATORS**

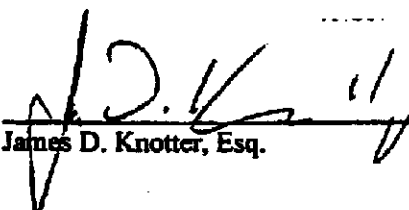
**Name**

James D. Knotter, Esq.  
Robert S. Fash  
Homer L. White

**Public/Industry**

Public Arbitrator  
Industry Arbitrator  
Public Arbitrator

**Concurring Arbitrators' Signatures**

  
James D. Knotter, Esq.

**Homer L. White**

**Robert S. Fash**

**Date of Service:**

August 28, 1997

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**ARBITRATORS**

**Name**

**Public/Industry**

James D. Knotter, Esq.

Public Arbitrator

Robert S. Fash

Industry Arbitrator

Homer L. White

Public Arbitrator

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Date of Service:

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**ARBITRATORS**

**Name**

James D. Knotter, Esq.  
Robert S. Fash  
Homer L. White

**Public/Industry**

Public Arbitrator  
Industry Arbitrator  
Public Arbitrator

**Concurring Arbitrators' Signatures**

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James D. Knotter, Esq.

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Homer L. White

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Robert S. Fash

Date of Service:

August 23, 1997