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N.A.S.D. AWARD

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Securities Dealers, Inc.

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1996

In the matter of the Arbitration Between

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Name of Claimant(s)

Sohail Masood

NASD Arbitration

No. 95-0492.2

Name of Respondent(s)

Prudential Securities Incorporated

REPRESENTATION

For Claimant: Mitchell E. Hornecker, Esq., Schwabe, Williamson & Wyatt, P.C., Portland, Oregon

For Respondent: William H. Freilich, Esq., Prudential Securities Incorporated, New York, New York

CASE INFORMATION

Statement of Claim filed: October 16, 1995

Claimant's Submission Agreement signed: October 16, 1995

Statement of Answer filed by Respondent: April 22, 1996

Respondent Prudential Securities Incorporated (PSI) did not file a Submission Agreement. However PSI is subject to National Association of Securities Dealers, Inc. (NASD) jurisdiction in accordance with Section 12 of the NASD Code of Arbitration Procedure.

HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s): None

Hearing Date(s)/Session(s): July 24, 1996 (two sessions)

Hearing Location: Portland, Oregon

CASE SUMMARY

Claimant alleged negligence and breach of contract with respect to his investment in Altera Corporation stock.

Respondent PSI denied each and every allegation in Claimant's Claim and alleged that Claimant curiously and disingenuously filed his Claim against PSI, the firm which merely provided clearing and back office services to Claimant's broker, **Texas Capital**. PSI further alleged that Texas Capital, the firm which dealt directly with Claimant and with whom Claimant conducted his business, is not even named as a party to this action and that PSI has no business being involved in this arbitration. PSI further alleged that Claimant **was a** client of Texas Capital, not PSI, and that under the controlling agreements of the parties, **Texas Capital**, not PSI, had exclusive control over, and responsibility for, the placement of orders in Claimant's account. PSI further alleged that PSI's duties as clearing firm for the Claimant's account were strictly limited, by contract, to performing the wholly ministerial, post-trade execution tasks of processing, **clearing and reporting** those trades already placed in Claimant's account by Texas Capital. PSI further alleged that it performed each of the above-stated responsibilities in a timely, reasonably, and in good faith. PSI also asserted affirmative defenses.

RELIEF REQUESTED

Claimant alleged that he paid at least \$100,000.00 more for the Altera Corporation shares as a result of Respondent's wrongful conduct and delay; that Respondent charged Claimant interest from the date of Claimant's buy-in demand until **Respondent** finally executed the trade on September 19, 1995; and that Respondent showed an account liability of more than \$223,000.00 from June 20, 1995, through the present.

Respondent requested that it be dismissed from this proceeding.

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 originals remain on file with the NASD.

The panel of arbitrators reviewed and considered the post-hearing submissions filed by the parties relative to Respondent's request to reopen the hearing in this matter. The panel denied the request to reopen the hearing.

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. Respondent Prudential Securities Incorporated is liable for and shall pay to Claimant the sum of \$64,061.59. Respondent shall pay to Claimant the sum of \$200.00 as reimbursement for Claimant's filing fees.

3. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall refund Claimant's hearing session deposit in the amount of \$750.00. Forum fees are assessed against: Prudential Securities Incorporated in the amount of \$1,500.00, calculated as follows: Two hearing sessions times \$750.00.

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

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Justine Fischer, Esq.	Public Arbitrator
Willard L. Cushing, Esq.	Public Arbitrator
Rodney O. McWhinney, Esq.	Industry Arbitrator

Concurring Arbitrators' Signatures


 Justine Fischer, Esq.

 Willard L. Cushing, Esq.

 Rodney O. McWhinney, Esq.

Date of Decision: _____

Date Served: 10/07/96

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Justine Fischer, Esq.	Public Arbitrator
Willard L. Cushing, Esq.	Public Arbitrator
Rodney O. McWhinney, Esq.	Industry Arbitrator

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Rodney O. McWhinney, Esq.	Industry Arbitrator

Concurring Arbitrators' Signatures

Justine Fischer, Esq.



Willard L. Cushing, Esq.

Rodney O. McWhinney, Esq.

Date of Decision: 10-1-96

Date Served: 10/07/96