

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

Anita Klein and the Anita Klein Ten-Year Trust, (Claimants) vs. Prudential Securities Inc. and Alan Sobelman, (Respondents)

Case Number: 99-01629

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

Claimants, Anita Klein ("Klein") and the Anita Klein Ten-Year Trust ("Trust"), hereinafter collectively referred to as "Claimants": Stephen L. Klein, Esq., a sole practitioner, West New York, NJ and Richard D. DeVita, Esq., a sole practitioner, Hoboken, NJ.

Respondents, Prudential Securities Inc. ("Prudential") and Alan Sobelman ("Sobelman"), hereinafter collectively referred to as "Respondents": Joseph D'Elia, Esq., Law Offices of Joseph D'Elia, Huntington, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: April 1, 1999.

Klein signed the Uniform Submission Agreement: March 19, 1999.

Trust signed the Uniform Submission Agreement: May 5, 1999.

Motion to Preclude filed on or about: September 21, 1999.

Joint Statement of Answer and Opposition to the Motion to Preclude filed by Respondents on or about: October 5, 1999.

Prudential signed the Uniform Submission Agreement: November 1, 1999.

Sobelman signed the Uniform Submission Agreement.

**CASE SUMMARY**

Claimants asserted the following causes of action: unsuitability; failure to disclose material information; and material misrepresentations.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants' Statement of Claim fails to state a claim upon which relief can be granted; Claimants authorized the execution of all trades in their accounts; Neither Respondent made any misrepresentations of fact and/or omitted to state material facts with respect to the investments made in Claimants' accounts; any losses were within the risks discussed with Claimants and within which Claimants chose

to assume; Claimants chose to ignore Sobelman's recommendation to sell the security at issue prior to its bankruptcy; Respondents acted at all times consistent with Claimants' investment objective; Respondents acted with due diligence, proper supervision, and otherwise in a competent, responsible, prudent, and professional manner; and Claimants have not incurred any damages arising out of, directly or indirectly, the actions of Respondents.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$86,965.85 plus filing fees.

Respondents requested that the Statement of Claim be dismissed or denied in its entirety, that all costs be assessed against Claimant, and such other and further relief as to the Panel may seem just and proper.

### **OTHER ISSUES CONSIDERED AND 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 evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are hereby denied in their entirety.
2. All other requests for relief are hereby denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 225.00
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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 firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, Prudential Securities Inc. is a party.

Member surcharge	= \$1,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,500.00

### **Forum Fees and Assessments**

The Panel assesses forum fees for each hearing session conducted. A hearing 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 \$750.00	= \$ 750.00
Pre-hearing conference: February 2, 2000	1 session

Two (2) Hearing sessions x \$750.00	= \$1,500.00
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Hearing Date: August 1, 2000	2 sessions
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Total Forum Fees	= \$2,250.00
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1. The Panel has assessed \$1,125.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$1,125.00 of the forum fees against Respondent Prudential Securities.

### **Fee Summary**

1. Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$1,125.00
Total Fees	= \$1,350.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 375.00

2. Prudential be and hereby is solely liable for:

Member Fees	= \$3,100.00
<u>Forum Fees</u>	<u>= \$1,125.00</u>
Total Fees	= \$4,225.00
<u>Less payments</u>	<u>= \$3,100.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1,125.00

All balances are due and payable to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

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.

Michelyn S. Harris  
Michelyn S. Harris, Esq.  
Public Arbitrator, Presiding Chair

8/30/00  
Signature Date

Lawrence A. Siegel  
Public Arbitrator

Signature Date

John B. Morgan  
John B. Morgan, Esq.  
Industry Arbitrator

8/30/00  
Signature Date

September 5, 2000  
Date of Service (For NASD office use only)