

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Names of Claimants

Kevin and Marc Horton

Case No. 99-01680

Names of Respondents

Prudential Securities, Inc.
Justin Weil

REPRESENTATION OF PARTIES

For Claimants Kevin and Marc Horton ("Horton"), hereinafter collectively referred to as "Claimants": Frank A. Lightmas, Jr., Esq. of the law firm of Lightmas & Delk, Atlanta, Georgia.

For Respondents Prudential Securities, Inc. ("Prudential") and Justin Weil ("Weil"), hereinafter collectively referred to as "Respondents": David G. Russell, Esq. of the law firm of Parker, Hudson, Rainer & Dobbs LLP, Atlanta, Georgia.

CASE INFORMATION

Statement of Claim filed on or about: April 5, 1999.

Claimants signed the Uniform Submission Agreement: March 31, 1999.

Statement of Answer filed by Respondents on or about: July 9, 1999.

Respondent Prudential signed the Uniform Submission Agreement: September 9, 1999.

Respondent Weil signed the Uniform Submission Agreement: August 30, 1999.

CASE SUMMARY

Claimants asserted the following: Claimants brought this action against Respondents for three unauthorized trades that occurred in October, 1998 relating to Lucent, Micron and America Online. Claimants contended that Claimant Kevin Horton, who was the only Claimant who had any contact with Respondent Weil, did not authorize the trades. The losses Claimants sustained as a result of these unauthorized trades were not the first or only losses they sustained in the account nor were they the largest losses incurred in the account. Claimants incurred other large losses in the account for which they are not seeking recovery because they either initiated those trades or agreed with Respondent Weil's recommendation and authorized Respondent Weil to execute the trades.

Claimants asserted claims based on violations of the federal and state securities laws, breach of fiduciary duty, negligence and breach of the Rules of Fair Practice of the NASD and the Rules of the NYSE, breach of contract, Georgia common law fraud and statutory fraud, and breach of the duty to supervise.

Respondents denied all of the allegations raised by Claimants in the Statement of Claim and alleged the following: The only claim asserted by Claimants involved three isolated trades in late October 1998. Claimants alleged that these trades were unauthorized, but, Claimants admitted that they authorized other trades on the same dates which were profitable. It is only the three unprofitable trades that they alleged were unauthorized. By stipulation, the parties agreed that the only issue before the Panel is whether these three trades were unauthorized. Because Respondents discussed the trades with Claimant Kevin Horton in advance, obtained his authorization, spoke with Claimant Kevin Horton about the positions after they were put on, and disclosed everything in writing by way of confirmations and monthly statements, there is no basis for a claim of unauthorized trading. Furthermore, because the Claimants never sent a written complaint about the trades to Respondent Weil's branch manager, as required by the contract with Prudential, they have waived their right to contest the validity of the trades.

RELIEF REQUESTED

Claimants requested actual damages in an amount equal to the losses they incurred which totaled \$369,181.77, pre-award and post-award interest on the actual damages incurred, punitive damages and all costs and expenses, including attorney's fees, incurred by Claimants in bringing this arbitration action.

Respondents requested that the panel deny all legal claims asserted by the Claimants.

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.

During the evidentiary hearing, Respondents asserted a motion to dismiss Claimant's claims in their entirety. The arbitration panel granted the motion to dismiss as it related to Claimant's claims of fraud and breach of fiduciary duty.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

All claims by the Claimants against Respondents are dismissed in all respects.

Claimants' request for punitive damages is denied.

All other claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$300.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$1,500.00

Pre-hearing process fee = \$600.00

Hearing process fee = \$2,500.00

Adjournment Fees

Adjournments requested during these proceedings:

No adjournments were requested during these proceedings.

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One Pre-hearing session with a single arbitrator x \$450.00 = \$450.00

Pre-hearing conference: March 30, 2000 1 session

One Pre-hearing session with Panel x \$1,125.00 = \$1,125.00

Pre-hearing conference: November 22, 1999 1 session

Four Hearing sessions x \$1,125.00 = \$4,500.00

Hearing Dates: April 25, 2000 2 sessions

April 26, 2000 2 sessions

Total Forum Fees = \$6,075.00

The Panel has assessed \$3037.50 of the forum fees to Claimants, jointly and severally.

The Panel has assessed \$3037.50 of the forum fees to Respondents Prudential and Weil, jointly and severally.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

Fee Summary

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$300.00
Forum Fees	= \$3,037.50
Total Fees	= \$3,337.50
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Regulation, Inc.	= \$1,912.50

Respondent Prudential be and hereby is solely liable for:

Member Fees	= \$4,600.00
Total Fees	= \$4,600.00
<u>Less payments</u>	<u>= \$4,600.00</u>
Balance Due NASD Regulation, Inc.	= \$0.00

Respondents Prudential and Weil be and hereby are jointly and severally liable for:

Forum Fees	= \$3,037.50
Total Fees	= \$3,037.50
<u>Less payments</u>	<u>= \$2,500.00</u>
Balance Due NASD Regulation, Inc.	= \$537.50

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

_____/s/_____
C. Wilson Blaylock, Esq.
Public Arbitrator, Presiding Chair

Signature Date

_____/s/_____
Jacquelyn Larsen Kiss, CPA
Public Arbitrator

Signature Date

/s/ _____
Mary O. Pitts, Esq.
Industry Arbitrator

Signature Date

May 12, 2000
Date of Service (For NASD office use only)

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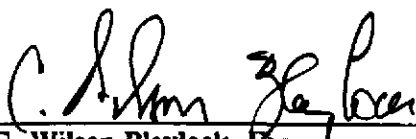
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C. Wilson Blaylock, Esq.
Public Arbitrator, Presiding Chair

5-8-00
Signature Date

Jacquelyn Larsen Kiss, CPA
Public Arbitrator

Signature Date

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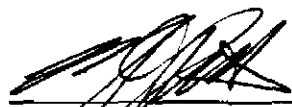
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C. Wilson Blaylock, Esq.
Public Arbitrator, Presiding Chair


Signature Date

Jacquelyn Larsen Kiss, CPA
Jacquelyn Larsen Kiss, CPA
Public Arbitrator

5/11/00
Signature Date



Mary O. Pitts, Esq.
Industry Arbitrator

 May 5 2000
Signature Date

Date of Service (For NASD office use only)