

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

David Bernstein and Anita Charney, Claimants v. Prudential Securities, Inc. and Steven Argila,
Respondents

Case Number: 99-01838

Hearing Site: San Diego, California

REPRESENTATION OF PARTIES

For Claimants:

Jeffrey L. Gaffney, Esq.
Law Offices of Jeffrey L.
Gaffney
San Diego, California

For Respondents:

Joseph D'Elia, Esq.
Law Offices of Joseph D'Elia
Huntington, New York

CASE INFORMATION

Statement of Claim filed: April 16, 1999

Claimants' Uniform Submission Agreement filed: April 16, 1999

Joint Statement of Answer filed by Respondents: August 3, 1999

Respondent Steven Argila's Uniform Submission Agreement signed: July 30, 1999

Respondent Prudential Securities, Inc.'s Uniform Submission Agreement signed: August 3,
1998

CASE SUMMARY

Claimants alleged breach of fiduciary duty, breach of the implied covenant of good faith and fair dealing, violation of NYSE Rule 401 (Business Conduct), NYSE Rule 405 (Know Your Customer Rules), and NASD Conduct Rule 2310 (Recommendations to Customers), professional malpractice, common law fraud, and intentional misrepresentation. The claim involved the purchase and/or sale of Criimi Mae.

Respondents denied the allegations of wrongdoing set forth in Claimants' Statement of Claim.

RELIEF REQUESTED

Claimants requested damages from losses to the value of the securities in the amount of \$24,272.00 and sought punitive damages, pre-award and post-award interest from the date of the original investment at the rate of 7% per annum, disgorgement of all commissions, mark-ups and mark-downs paid, and costs of arbitration, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing on the merits, Claimants dismissed with prejudice Respondent Steven Argila from this action.

The parties agreed that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, testimony, and evidence presented at the hearing, the Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Prudential Securities, Inc. is liable to and shall pay Claimants the sum of \$28,907.00 in compensatory damages.
- 2) Respondent Prudential Securities, Inc. is liable to and shall pay Claimants interest on the sum of \$28,907.00 at the rate of 10% per annum from the date of the award until the award is paid in full.
- 3) Claimants' request for punitive damages is denied in its entirety.
- 4) Each party shall bear its own costs, including attorney's fees.
- 5) All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 125.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the event of the dispute. Accordingly, the member firm Prudential Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 400.00
Total Member Fees	= \$ 400.00

Forum Fees and Assessments

The Arbitrator assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair. The following fees are assessed:

(1) Pre-hearing conference session with a single arbitrator @ \$ 450/session	= \$ 450.00
Pre-hearing conference: March 6, 2000 1 session	

(2) Hearing sessions @ \$ 450/session	= \$ 900.00
Hearings: September 6, 2000 2 sessions	

Total Forum Fees	= \$ 1,350.00
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1. The Arbitrator assessed \$ 675.00 of the forum fees jointly and severally to Claimants.
2. The Arbitrator assessed \$ 675.00 of the forum fees to Prudential Securities, Inc.

Fee Summary

1. Claimants, David Bernstein and Anita Charney, are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 125.00
<u>Forum Fees</u>	<u>= \$ 675.00</u>
Total Fees	= \$ 800.00
<u>Less payments</u>	<u>= \$ (575.00)</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 225.00

2. Respondent, Prudential Securities, Inc., is charged with the following fees and costs:

Member Fees	= \$ 400.00
<u>Forum Fees</u>	<u>= \$ 675.00</u>
Total Fees	= \$1,075.00
<u>Less payments</u>	<u>= \$ (400.00)</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 675.00

All balances are payable to NASD Dispute Resolution, Inc. and are due within 30 days of the Award's date of service.

Arbitrator's Signature



Robert F. Ames, Esq.
Chair, Public Arbitrator

9/20/00

Signature Date

September 20, 2000

Date of Service