

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

---

In the Matter of the Arbitration Between:

**Gary M. Douthett, Individually and as Trustee of the Terri L. Douthett Grantor Annuity Trust, and Terri L. Douthett, Individually and as Trustee of the Gary M. Douthett Grantor Annuity Trust v. Prudential Securities, Charles Pischea and Robert Kilbridge**

Case Number: 99-2353

Hearing Site: Southfield, Michigan

---

**REPRESENTATION OF PARTIES**

Claimants, Gary M. Douthett, Individually and as Trustee of the Terri L. Douthett Grantor Annuity Trust, and Terri L. Douthett, Individually and as Trustee of the Gary M. Douthett Grantor Annuity Trust, hereinafter collectively referred to as "Claimants": Stephen C. Bransdorfer, Esq., Bransdorfer & Russell, Grand Rapids, Michigan.

Respondents, Prudential Securities ("PSI"), Charles Pischea ("Pischea") and Robert Kilbridge ("Kilbridge"), hereinafter collectively referred to as "Respondents": Joan Schwartz, Esq., Prudential Securities, Inc., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: May 21, 1999

Claimant, Gary M. Douthett, signed the Uniform Submission Agreement: May 7, 1999

Claimant, Terri L. Douthett, signed the Uniform Submission Agreement: May 7, 1999

Statement of Answer filed by Respondents, on or about: August 26, 1999

Respondent, Pischea, signed the Uniform Submission Agreement: August 27, 1999

Respondent, Kilbridge, signed the Uniform Submission Agreement: August 27, 1999

Respondents' Motion to Dismiss filed on or about: March 19, 2001

**CASE SUMMARY**

Claimants asserted the following causes of action: churning and violations of various trading rules and SEC regulations. The causes of action relate to Respondents' alleged unnecessary trading, unnecessary excess sales commissions, and alleged expenses due to substantial capital gains.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim fails to state a claim upon which relief can be granted; Claimants, at all relevant times, had or should have had full knowledge of all material facts concerning the investments they made, including the nature of the investments and the associated risks; Claimants directed and authorized the execution of all transactions in their accounts, and therefore are estopped from bringing this action; and Claimants' accounts were not invested in contravention of the investment objectives.

### **RELIEF REQUESTED**

Claimants requested damages of \$77,650.33, and other unspecified relief.

Respondents requested dismissal and expungement of Respondent Pischea's and Kilbridge's CRD records. Alternatively Respondents requested that the claims be denied, expungement of Respondent Pischea's and Kilbridge's CRD records, and costs.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondent Prudential Securities, Inc., did not file with NASD Dispute Resolution, Inc., a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim and appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

At hearing, the Panel denied Respondents' Motion to Dismiss.

The Panel assessed the second adjournment fee to Claimants, jointly and severally.

### **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, each and all, are denied with prejudice;*
- 2.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Charles Pischea's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Pischea (CRD #364060) must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Robert Kilbridge's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Kilbridge (CRD #1210365) must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 4.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 5.) That any relief not specifically enumerated, including punitive damages is hereby denied with prejudice.

### **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 = \$ 225.00

#### **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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$1,000.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$1,500.00

#### **Adjournment Fees**

Adjournments requested during these proceedings:

June 14-15, 2000 adjournment by Claimants and Respondents = \$ 750.00

January 23-24, 2001, adjournment by Respondents = \$ 1,000.00

#### **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 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 (1) Pre-hearing session with Panel x \$750.00 = \$ 750.00

Pre-hearing conference(s): Date 1 session

Five (5) Hearing sessions x \$750.00 = \$3,750.00

Hearing Dates: March 22, 2001 3 sessions

March 23, 2002 2 sessions

---

Total Forum Fees = \$4,500.00

- 1) The Panel has assessed \$2,250.00 of the forum fees jointly and severally to Claimants.
- 2) The Panel has assessed \$2,250.00 of the forum fees jointly and severally to Respondents.

### **Fee Summary**

Claimants, Gary M. Douthett, Individually and as Trustee of the Terri L. Douthett Grantor Annuity Trust, and Terri L. Douthett, Individually and as Trustee of the Gary M. Douthett Grantor Annuity Trust are jointly and severally liable for:

04/11/01 WED 14:27 FAX

## NASD REGULATION

006

NASD Dispute Resolution, Inc.  
Arbitration # 98-2358  
Award Page 4 of 4

Initial Filing Fee	= \$ 225.00
Adjournment Fee	= \$ 1,375.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 3,850.00
Less payments	= \$ 1,350.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,500.00

Respondent, Prudential Securities, Inc., is solely liable for:

Member Fees	= \$ 3,100.00
Less payments	= \$ 3,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondents, Prudential Securities, Charles Plishea and Robert Kilbridge are jointly and severally liable for:

Adjournment Fee	= \$ 375.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,625.00
Less payments	= \$ 00.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,625.00

All balances are due to NASD Dispute Resolution, Inc.

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Jacqueline H. Fox, Esq.  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Michael J. Meeusen, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

Susan L. Currier  
Susan Lee Currier  
Industry Arbitrator

4-12-01  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.  
Arbitration # 99-2353  
Award Page 4 of 4

Initial Filing Fee	= \$ 225.00
Adjournment Fee	= \$ 1,375.00
<u>Forum Fees</u>	= \$ 2,250.00
Total Fees	= \$ 3,850.00
<u>Less payments</u>	= \$ 1,350.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,500.00

Respondent, Prudential Securities, Inc., is solely liable for:

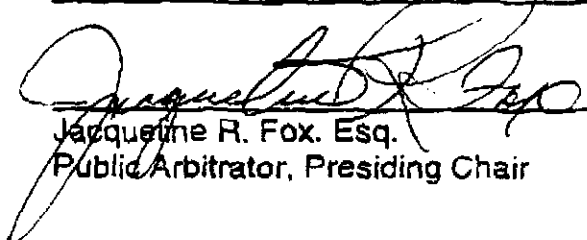
Member Fees	= \$ 3,100.00
<u>Less payments</u>	= \$ 3,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondents, Prudential Securities, Charles Pischea and Robert Kilbridge are jointly and severally liable for:

Adjournment Fee	= \$ 375.00
<u>Forum Fees</u>	= \$ 2,250.00
Total Fees	= \$ 2,625.00
<u>Less payments</u>	= \$ 00.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,625.00

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

  
Jacqueline R. Fox, Esq.  
Public Arbitrator, Presiding Chair

4/14/01  
Signature Date

\_\_\_\_\_  
Michael J. Meeusen, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Susan Lee Currier  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.  
Arbitration # 99-2259  
Award Page 4 of 4

Initial Filing Fee	= \$ 225.00
Adjournment Fee	= \$ 1,375.00
<u>Forum Fees</u>	<u>= \$ 2,250.00</u>
Total Fees	= \$ 3,850.00
<u>Less payments</u>	<u>= \$ 1,350.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,500.00

Respondent, Prudential Securities, Inc., is solely liable for:

Member Fees	= \$ 3,100.00
<u>Less payments</u>	<u>= \$ 3,100.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondents, Prudential Securities, Charles Pischea and Robert Kilbridge are jointly and severally liable for:

Adjournment Fee	= \$ 375.00
<u>Forum Fees</u>	<u>= \$ 2,250.00</u>
Total Fees	= \$ 2,625.00
<u>Less payments</u>	<u>= \$ 00.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,625.00

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

Jacqueline R. Fox, Esq.  
Public Arbitrator, Presiding Chair

Signature Date

  
Michael J. Meusen, Esq.  
Public Arbitrator

4-11-01  
Signature Date

Susan Lee Currier  
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)