

Final Order
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

John Ferrari as the father and natural guardian of Mark Ferrari, (Claimant) vs. Prudential Securities Incorporated, Donald Sarner, and Harold Koven, (Respondents)

Case Number: 99-02851

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant John Ferrari as the father and natural guardian of Mark Ferrari, hereinafter referred to as "Claimant": Edward J. Yun, Esq., Nathan L. Dembin & Associates, P.C., New York, NY.

Respondents Prudential Securities Incorporated ("Prudential"), Donald Sarner ("Sarner"), and Harold Koven ("Koven"), hereinafter collectively referred to as "Respondents": Patrick Gaffney, Esq., First Vice President, Prudential Securities Incorporated, New York, NY. Previously represented by: Norman L. Ashkenas, Esq., Assistant General Counsel, Prudential Securities Incorporated, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: June 21, 1999.

Affirmation in Opposition to Respondents' Motion to Dismiss filed by Claimant on or about: September 24, 1999.

Sur-Reply Affirmation filed by Claimant on or about: April 19, 2000.

Claimant signed the Uniform Submission Agreement: June 15, 1999.

Motion to Dismiss filed by Respondents on or about: September 13, 1999.

Reply to the Affirmation in Opposition to the Motion to Dismiss filed by Respondents on or about: April 10, 2000.

Prudential did not file a Statement of Answer.

Prudential signed the Uniform Submission Agreement.

Koven did not file a Statement of Answer.

Koven signed the Uniform Submission Agreement: September 9, 1999.

Sarner did not file a Statement of Answer or sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: suitability; negligence; breach of fiduciary

duty; failure to supervise; breach of the implied covenant of good faith and fair dealing; fraud; deceit; misrepresentation; omission; and concealment of material facts.

RELIEF REQUESTED

Claimant requested compensatory damages in the approximate amount of \$400,000.00; interest from 1985; costs of arbitration, including attorneys' fees, representative fees, expert witness fees, filing fees, and such other costs and disbursements as the Panel deems fair and reasonable; pre- and post-award interest at the maximum rate allowed by law; and punitive damages in an amount to be determined by the arbitrators.

Respondents requested that the Panel issue an Order dismissing Claimant's claim in its entirety.

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.

Sarner 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 is bound by the determination of the Panel on all issues submitted.

Respondents filed a Motion to Dismiss the Statement of Claim in its entirety on the grounds that it is ineligible for submission under Rule 10304 of the NASD Code of Arbitration Procedure ("the Code"). The Panel's decision is reflected below.

DECISION

After considering the pleadings, including Respondents' Motion to Dismiss and all responses thereto, and 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. Pursuant to Rule 10304 of the Code, Claimant's claims are hereby dismissed 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 = \$ 300.00

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 person at the time of the events giving rise to the dispute. In this matter, Prudential Securities Incorporated is a party.

Member surcharge = \$1,500.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$2,500.00

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 \$1,125.00 = \$1,125.00

Pre-hearing conference: April 13, 2000 1 session

Two (2) Hearing sessions x \$1,125.00 = \$2,250.00

Hearing Date: October 11, 2000 2 sessions

Total Forum Fees = \$3,375.00

The Panel has assessed all of the forum fees against Claimant.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee = \$ 300.00

Forum Fees = \$3,375.00

Total Fees = \$3,675.00

Less payments = \$1,575.00

Balance Due NASD Dispute Resolution, Inc. = \$2,100.00

2. Prudential be and hereby is solely liable for:

Member Fees = \$4,600.00

Total Fees = \$4,600.00

Less payments = \$4,600.00

Balance Due NASD Dispute Resolution, Inc. = \$ 0.00

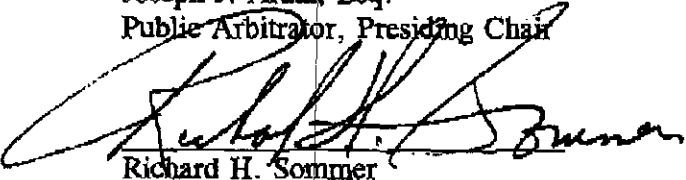
All balances are due and payable to NASD Dispute Resolution, Inc.

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.

Joseph J. Arata, Esq.
Public Arbitrator, Presiding Chair

Signature Date


Richard H. Sommer
Public Arbitrator


Signature Date


Harry J. Lundgren, Jr.
Industry Arbitrator

Signature Date

November 22, 2000
Date of Service (For NASD office use only)

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.



Joseph J. Arata, Esq.
Public Arbitrator, Presiding Chair

11-17-00

Signature Date

Richard H. Sommer
Public Arbitrator

Signature Date

Harry J. Lundgren, Jr.
Industry Arbitrator

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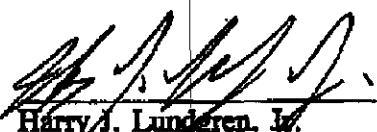
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