

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Calvin W. Newport

Case No. 99-04908
Hearing Site: Oklahoma City, OK

Name of Respondents

Prudential Insurance Company of America, Inc.,
John D. Shields

REPRESENTATION OF PARTIES

Claimant Calvin W. Newport ("Newport") was represented by Brian J. Rayment, Esq. of Kivell, Rayment, and Francis, located in Tulsa, Oklahoma.

Respondents Prudential Insurance Company of America, Inc. ("PICA") and John D. Shields ("Shields") (collectively referred to as "Respondents") were represented by Timothy A. Carney, Esq. of Gable & Gotwals, located in Tulsa, Oklahoma.

CASE INFORMATION

Statement of Claim filed on or about: November 1, 1999.
Claimant signed the Uniform Submission Agreement: December 20, 1999.

Statement of Answer filed by Respondents Prudential and Shields on or about: February 23, 2000.
Respondents PICA and Shields signed the Uniform Submission Agreement: February 16, 2000.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract; slander; and intentional interference with contractual relations. Claimant alleges Respondent attempted to terminate his Career Special Agent's Contract ("Contract") without cause and have failed to pay commissions due Claimant under the terms of the Contract.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim upon which relief may be granted; failure to state a claim for which declaratory relief may be granted; and allegations are barred in whole or in part by the Parole Evidence Rule.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 1,030,000.06
Interest	\$ unspecified
Attorney Fees	\$ unspecified
Other Costs	\$ unspecified

and any other relief the Panel deemed just and equitable.

Respondents requested that the Statement of Claim be dismissed in its entirety and that be awarded its attorney fees, cost, forum fees and any other relief the Panel deemed proper.

OTHER ISSUES CONSIDERED AND DECIDED

Change of party representation, Dan Morgan of Gable & Gotwals substituted for Tim Carney of Gable & Gotwals, Respondents counsel at hearing.

The Panel considered two motions: a motion to exclude evidence and supporting brief and a motion to dismiss, both motions were denied.

AWARD

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

1. Any and all claims asserted herein are hereby denied;
2. Each party pays its own costs, including attorney's fees.

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: \$ 500.00

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 event giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	\$ 2,500.00
Pre-Hearing process fee	\$ 600.00
<u>Hearing Process fee</u>	<u>\$ 4,500.00</u>
Total	\$ 7,600.00

Adjournment Fees

No adjournments were requested during this hearing

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:

Two (2) Pre-hearing sessions with Panel x \$1,200.00	= \$2,400
Pre-hearing conferences: November 30, 2000	1 session
January 10, 2001	1 session
Six (6) Hearing sessions x \$1,200.00	= \$7,200.00
Hearing Dates: January 16, 2001	2 sessions
January 17, 2001	2 sessions
January 18, 2001	2 sessions
Total Forum Fees	= \$9,600

1. The Panel has assessed \$4,800.00 of the forum fees to Claimant Newport.
2. The Panel has assessed \$4,800.00 of the forum fees jointly and severally to Respondents PICA and Shields.

Fee Summary

1. Claimant shall be and hereby is solely liable for:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$4,800.00
Total Fees	= \$5,300.00
<u>Less payments</u>	= \$1,700.00
Balance Due NASD Regulation, Inc.	= \$3,600.00

2. Respondent PICA shall be and hereby is solely liable for:

<u>Member Fees</u>	= \$7,600.00
Total Fees	= \$7,600.00
<u>Less payments</u>	= \$ 600.00
Balance Due NASD Regulation, Inc.	= \$7,000.00

3. Respondents PICA and Shields shall be and hereby are jointly and severally liable for:

<u>Forum Fee</u>	= \$4,800.00
Balance Due NASD Regulation, Inc.	= \$4,800.00

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

/s/ John Ulrey

2/28/01

John Ulrey
Chairperson

Signature Date

/s/ Raymond E. Tompkins

2/27/01

Raymond E. Tompkins, J.D.
Public Arbitrator

Signature Date

/s/ William Massad

William Massad
Industry Arbitrator

Signature Date

March 06, 2001

Date of Service (For NASD-DR office use only)

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Concurring Arbitrators' Signatures

John Ulrey
Chairperson

Signature Date

Raymond E. Tompkins, J.D.
Public Arbitrator

Signature Date



William Massad
Industry Arbitrator

Signature Date

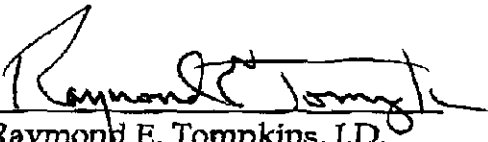
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John Ulrey
Chairperson

Signature Date



Raymond E. Tompkins, J.D.
Public Arbitrator

2/27/01

Signature Date

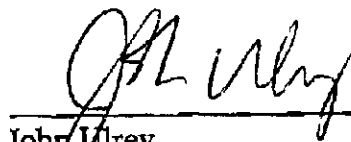
William Massad
Industry Arbitrator

Signature Date

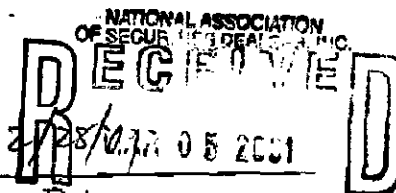
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John Wiley
Chairperson



Signature Date

Raymond E. Tompkins, J.D.
Public Arbitrator

Signature Date

William Massad
Industry Arbitrator

Signature Date

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