

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimants

Judy Tomchey, Judy C. Tomchey IRA/Roll,
Ms. Judy Tomchey Per Rep Est Charles W. Tomchey

and

02-05855
Nashville, Tennessee

Name of Respondents

Washington Square Securities, Inc.
Catherine M. Nolen
Prudential Securities Inc. n/k/a Prudential Equity Group, LLC

Nature of the Dispute: Customers vs. Members and Associated Person

REPRESENTATION OF PARTIES

Judy Tomchey, Judy C. Tomchey IRA/Roll, Ms. Judy Tomchey Per Rep Est Charles W. Tomchey ("Claimants") were represented by Michael P. Gilmore, Esq., Sims, Moss, Kline & Davis LLP, Mineola, New York.

Washington Square Securities, Inc. and Catherine M. Nolen ("Respondents") were represented by H. Frederick Humbracht, Jr., Esq., Boulton Cummings Conners Berry PLC, Nashville, Tennessee.

Prudential Securities Inc. n/k/a Prudential Equity Group, LLC ("Respondent") was represented by Amy B. Jones, Esq., Garvey Schubert Barer, New York, New York.

CASE INFORMATION

The Statement of Claim was filed on or about October 1, 2002. The Submission Agreement of Claimants Judy Tomchey, Judy C. Tomchey IRA/Roll, Ms. Judy Tomchey Per Rep Est Charles W. Tomchey was signed on or about September 20, 2002.

The Statement of Answer was filed by Respondents Washington Square Securities, Inc. and Catherine M. Nolen on or about April 3, 2002. The Submission Agreement of Respondent Washington Square Securities, Inc. was signed on or about July 21, 2003. The Submission Agreement of Respondent Catherine M. Nolen was signed on or about July 16, 2003.

The Statement of Answer was filed by Respondent Prudential Securities Inc. n/k/a Prudential Equity Group, LLC on or about February 28, 2003. Respondent Prudential Securities Inc. n/k/a Prudential Equity Group, LLC did not file an executed submission agreement.

CASE SUMMARY

Claimants asserted the following causes of action: fraud, breach of contract, and negligence. The causes of action relate to Claimants' allegations that Respondents developed and employed a speculative investment strategy that included trading on margin in concentrated risky technology and telecommunications stocks that resulted in losses. Claimants further alleged that Respondents failed to take steps necessary to effect the deposit of her late husband's IRA account into an IRA rollover for the benefit of Judy Tomchey resulting in a tax liability.

Unless specifically admitted in their Answer, Respondents Washington Square Securities, Inc. and Catherine M. Nolen denied the allegations made in the Statement of Claim and asserted the following: The Statement of Claim fails to state a claim upon which any relief may be granted; All actions taken by Ms. Nolen and Washington Square Securities, Inc., were for legitimate business purposes and in compliance with all applicable laws and regulations; Claimants have suffered no compensable damages as a result of any alleged wrongful conduct by the Respondents; Claimants' claims are barred in whole or in part by her failure to mitigate damages; Claimants' claims are barred by the doctrines of estoppel, waiver, ratification and/or laches; Any and all damages for which Claimants seeks recovery were caused by their own fault or the fault of others, including their attorneys an account and Prudential; Claimants' damages, if any, were caused by changes in the market condition, not by any or omission by the Respondents; Respondents, in discharging their duties, acted in good faith and exercised the degree of care, diligence and skill that an ordinarily prudent person would exercise in similar circumstances in like positions having to deal with the Claimants; Claimants is not entitled to any punitive damages, pre- or post-judgment interest, costs or attorney's fees; and The damages allegedly suffered by Claimants have no causal relationship to any act committed by or attributable to Respondents.

Unless specifically admitted in its Answer, Respondent Prudential Equity Group, LLC denied the allegations made in the Statement of Claim and asserted the following: The Statement of Claim fails to state a claim upon which relief may be granted; Judy Tomchey and/or the Estate failed to mitigate their damages, if any; Any losses suffered by Judy Tomchey and/or the Estate were occasioned by Judy Tomchey's specific instructions and directions to PSI with respect to the PSI IRA and Estate Accounts, not by any misconduct or failure on the part of PSI; Neither Judy Tomchey nor the Estate may recover damages herein because their failure to object or complain in a timely manner to the liquidation of the PSI IRA and the related payment into the PSI Estate Account resulted in a ratification thereof; Both Judy Tomchey and the Estate are estopped from asserting this claim against PSI because Judy Tomchey explicitly acknowledged that PSI was not responsible for ascertaining the appropriateness of the

distribution request she made with respect to the PSI Accounts; PSI acted in good faith and with due care respecting the PSI IRA and Estate Accounts; and Judy Tomchey expressly indemnified and agreed to hold harmless PSI from any liability for effecting the transactions Judy Tomchey instructed PSI to execute in the PSA IRA and Estate Accounts.

RELIEF REQUESTED

Claimants requested an award against Respondents as follows: On the First through Third Causes of Action, in favor of Judy Tomchey and against Respondent Catherine M. Nolen and Washington Square Securities, Inc. in the amount of \$424,324.39 plus interest; and On the Second and Third Causes of Action in favor of Judy Tomchey and against Respondent Prudential Securities, Inc. in the amount of \$200,000.00 plus interest.

For such other and further relief as this Panel deems just and proper, including, exemplary damages, attorney's fees, and the costs and disbursements of this action.

Respondents Washington Square Securities, Inc. and Catherine M. Nolen requested that the claims asserted against them be denied in their entirety and that the Claimant recover nothing

Respondent Prudential Equity Group, LLC requested that the claims asserted against them be denied in their entirety and that they be awarded their costs, forum fees and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

At the conclusion of the claimant's case, the Panel granted the Respondents Motion to Dismiss the allegations of fraud. The Respondents other two Motions to Dismiss were taken under advisement.

Claimants' Pre-hearing Memorandum of Law was submitted on or about April 6, 2004.

Respondents' Washington Square Securities, Inc. and Catherine M. Nolen submitted their Hearing Brief on or about April 2, 2004.

Respondent Prudential Equity Group, LLC settled with Claimants on or about April 2, 2004.

Respondent Prudential Equity Group, LLC did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim is bound by the determination of the arbitration panel on all issues submitted.

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. In either case, the parties have agreed to receive

conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

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

1. Claimants' first cause of action for common law fraud was denied by the granting of Respondent's Motion to Dismiss Allegation of Common Law fraud at the conclusion of Claimant's case.
2. Claimants' second cause of action for common law breach of contract express or implied is denied.
3. Claimants' third cause of action for negligence is denied.
4. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
5. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

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, the member firms are Washington Square Securities, Inc. and Prudential Equity Group, LLC.

Washington Square Securities, Inc.

Member surcharge	\$	2,250.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	4,000.00
Total Member Fees	\$	7,000.00

Prudential Equity Group, LLC

Member surcharge	\$	2,250.00
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Pre-hearing process fee	\$	750.00
Hearing process fee	\$	4,000.00
Total Member Fees	\$	7,000.00

Forum Fees and Assessments

The Arbitration 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:

1	Pre-hearing sessions with Panel	x	450.00	\$	450.00
	February 12, 2004	1	session		
1	Pre-hearing session with Panel	x	1,200.00		1,200.00
	September 15, 2003	1	session		
6	Hearing sessions	x	1,200.00	\$	7,200.00
	April 13, 2004	2	sessions		
	April 14, 2004	3	sessions		
	April 15, 2004	1	sessions		
	Total Forum Fees			\$	8,850.00

The Arbitration Panel has assessed \$4,425.00 of the forum fees jointly and severally to Judy Tomchey, Judy C. Tomchey IRA/Roll, Ms. Judy Tomchey Per Rep Est Charles W. Tomchey.

The Arbitration Panel has assessed \$4,425.00 of the forum fees jointly and severally to Washington Square Securities, Inc. and Catherine M. Nolen.

Fee Summary

Claimants, Judy Tomchey, Judy C. Tomchey IRA/Roll, Ms. Judy Tomchey Per Rep Est Charles W. Tomchey shall be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$	375.00
<u>Forum Fees</u>	= \$	4,425.00
Total Fees	= \$	4,800.00
<u>Less payments</u>	= \$	-1,575.00
Balance Due NASD Dispute Resolution	= \$	3,225.00

Respondent, Washington Square Securities, Inc., shall be and hereby is liable for:

<u>Member Fees</u>	= \$	7,000.00
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Total Fees	= \$	7,000.00
<u>Less payments</u>	= \$	<u>-7,000.00</u>
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, Washington Square Securities, Inc. and Catherine M. Nolen, shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	4,425.00
Total Fees	= \$	4,425.00
<u>Less payments</u>	= \$	<u>-0.00</u>
Balance Due NASD Dispute Resolution	= \$	4,425.00

Respondent, Prudential Equity Group, LLC, shall be and hereby is liable for:

<u>Member Fees</u>	= \$	7,000.00
Total Fees	= \$	7,000.00
<u>Less payments</u>	= \$	<u>-7,000.00</u>
Balance Due NASD Dispute Resolution	= \$	0.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

D. Bruce Shine, Esq. - Public Arbitrator, Presiding Chair
 S. Shepherd Tate, Esq. - Public Arbitrator
 Coleman Robert Perry, Jr., CFP - Non-Public Arbitrator

Concurring Arbitrators:

/s/ D. Bruce Shine, Esq.
 D. Bruce Shine, Esq.
 Public Arbitrator, Presiding Chair

05/10/04
 Signature Date

/s/ S. Shepherd Tate, Esq.
 S. Shepherd Tate, Esq.
 Public Arbitrator

05/10/04
 Signature Date

/s/ Coleman Robert Perry, Jr., CFP
 Coleman Robert Perry, Jr., CFP
 Non-Public Arbitrator

05/10/04
 Signature Date

05/10/04
 Date of service

NASD Dispute Resolution
Arbitration No. 02-05855
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Total Fees	= \$	7,000.00
<u>Less payments</u>	= \$	<u>-7,000.00</u>
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, Washington Square Securities, Inc. and Catherine M. Nolen, shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	4,425.00
Total Fees	= \$	4,425.00
<u>Less payments</u>	= \$	<u>-0.00</u>
Balance Due NASD Dispute Resolution	= \$	4,425.00

Respondent, Prudential Equity Group, LLC, shall be and hereby is liable for:

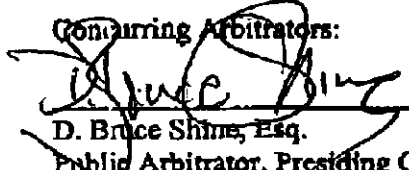
<u>Member Fees</u>	= \$	7,000.00
Total Fees	= \$	7,000.00
<u>Less payments</u>	= \$	<u>-7,000.00</u>
Balance Due NASD Dispute Resolution	= \$	0.00

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S. Shepherd Tate, Esq. - Public Arbitrator
Coleman Robert Perry, Jr., CFP - Non-Public Arbitrator

Concurring Arbitrators:


D. Bruce Shine, Esq.
Public Arbitrator, Presiding Chair

May 10, 2004
Signature Date

S. Shepherd Tate, Esq.
Public Arbitrator

Signature Date

Coleman Robert Perry, Jr., CFP
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution
Arbitration No. 02-05855
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Total Fees	= \$	7,000.00
<u>Less payments</u>	= \$	<u>-7,000.00</u>
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, Washington Square Securities, Inc. and Catherine M. Nolen, shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	4,425.00
Total Fees	= \$	4,425.00
<u>Less payments</u>	= \$	<u>-0.00</u>
Balance Due NASD Dispute Resolution	= \$	4,425.00

Respondent, Prudential Equity Group, LLC, shall be and hereby is liable for:

<u>Member Fees</u>	= \$	7,000.00
Total Fees	= \$	7,000.00
<u>Less payments</u>	= \$	<u>-7,000.00</u>
Balance Due NASD Dispute Resolution	= \$	0.00

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Non-Public Arbitrator

Signature Date

May 10, 2004

Signature Date

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NASD Dispute Resolution
Arbitration No. 02-05855
Award Page 6 of 6

Total Fees	= \$	7,000.00
<u>Less payments</u>	= \$	<u>-7,000.00</u>
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, Washington Square Securities, Inc. and Catherine M. Nolen, shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	<u>4,425.00</u>
Total Fees	= \$	4,425.00
<u>Less payments</u>	= \$	<u>-0.00</u>
Balance Due NASD Dispute Resolution	= \$	4,425.00

Respondent, Prudential Equity Group, LLC, shall be and hereby is liable for:

<u>Member Fees</u>	= \$	<u>7,000.00</u>
Total Fees	= \$	7,000.00
<u>Less payments</u>	= \$	<u>-7,000.00</u>
Balance Due NASD Dispute Resolution	= \$	0.00

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ARBITRATION PANEL

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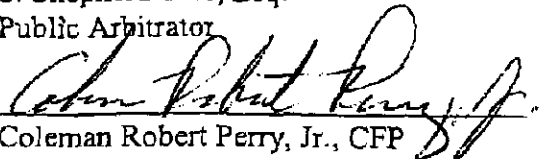
Concurring Arbitrators:

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Public Arbitrator, Presiding Chair

Signature Date

S. Shepherd Tate, Esq.
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Signature Date



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Non-Public Arbitrator

5-10-04
Signature Date