
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Joel S. Jacobson

Case Number: 03-05775

Names of the Respondents
Wachovia Securities, LLC as successor to
Prudential Securities Incorporated
Mary Ellen Kay
Douglas F. Culver
Prudential Equity Group, Inc.

Hearing Site: Atlanta, Georgia

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

For Joel S. Jacobson, hereinafter referred to as "Claimant": Robert C. Port, Esq., Hassett Cohen Goldstein Port & Gottlieb, LLP, Atlanta, Georgia.

For Respondents Wachovia Securities, LLC as successor to Prudential Securities Incorporated ("Wachovia"), Douglas F. Culver ("Culver") and Prudential Equity Group, Inc. ("PEG"): Karl L. Marquardt, Esq., Bressler, Amery & Ross, P.C., New York, New York.

For Respondent Mary Ellen Kay, hereinafter referred to as "Kay": Andrew W. Sidman, Esq., Butler, Fitzgerald & Potter, P.C., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: August 7, 2003.

Claimant signed the Uniform Submission Agreement: August 5, 2003.

Statement of Answer filed by Respondents Wachovia and Culver on or about: December 5, 2003.

Respondent Culver signed the Uniform Submission Agreement: November 25, 2003.

Statement of Answer filed by Respondent Kay on or about: December 5, 2003.

Respondent Kay signed the Uniform Submission Agreement: December 4, 2003.

Respondent Wachovia did not file an executed Uniform Submission Agreement.

Respondent PEG did not file an executed Uniform Submission Agreement or Statement of Answer.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; breach of contract; negligence; violation of duty to supervise; violation of Georgia Securities Act; unsuitability; common law fraud; and, violation of Georgia Racketeering Act. The causes of action relate to the purchase and sale of shares of American Superconductor Corp., CMGI, Global Crossing,

Imanage, Kopin Corp., NextLink Communications, Onhealth Network Co., Pharmos Corp., Procom Technology, Inc., Teligent, Inc., Xlinx, Inc. and other unspecified securities products in Claimant's account.

Unless specifically admitted in their respective Answers, Respondents Wachovia, Culver and Kay denied all claims made in the Statement of Claim.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$142,000.00, treble damages pursuant to Georgia's Racketeering Act, punitive damages, attorney's fees, costs and any other relief deemed just and proper.

Respondents Wachovia, Kay and Culver requested that the Statement of Claim be dismissed, with prejudice, and that the Panel enter an order expunging or striking this claim from the permanent registration records of Respondents Kay and Culver maintained by the NASD Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Wachovia and PEG did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and are bound by the determinations of the Panel on all issues submitted.

On or about April 29, 2004, the parties submitted a Consent Agreement Substituting Prudential Equity Group, Inc. for Wachovia Securities, LLC. On or about April 29, 2004, the Panel issued an order granting the parties' request and substituting Respondent PEG in place of Respondent Wachovia.

On or about December 10, 2004, Claimant notified NASD Dispute Resolution that this matter had been settled.

On or about December 10, 2004, the parties filed a proposed Stipulated Award with a request that the Panel enter the Stipulated Award expunging this matter from Respondents Kay and Culver's NASD CRD records.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the proposed Stipulated Award and the record in this matter, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents PEG, Culver and Kay are dismissed, with prejudice.

Claimant and Respondents PEG, Culver and Kay have entered into a confidential settlement agreement which shall be complied with by all parties.

The Panel recommends the expungement of all references to the above captioned arbitration from Respondents Culver and Kay's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Culver and Kay must obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive.

Each party shall bear its own costs and expenses associated with the above-referenced arbitration.

Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 300.00
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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 Prudential Equity Group, Inc. is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Adjournment Fees

Adjournment granted during these proceedings for which fees were assessed:

December 7-10, 2004, adjournment requested by all parties	= \$1,125.00
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Pursuant to the agreement of the parties, the Panel has assessed the total adjournment fees of \$1,125.00 jointly and severally to Respondents PEG, Culver and Kay.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

December 7-10, 2004, adjournment requested by all parties	= \$ 300.00
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Pursuant to the agreement of the parties, the Panel has assessed the total three-day cancellation fees of \$300.00 jointly and severally to Respondents PEG, Culver and Kay.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

Four (4) Pre-hearing sessions with the Panel @ \$1,125.00		= \$4,500.00
Pre-hearing conferences:		
March 10, 2004	1 session	
May 3, 2004	1 session	
September 15, 2004	1 session	
February 4, 2005	1 session	
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Total Forum Fees		= \$4,500.00

The Panel has assessed \$2,250.00 of the forum fees to Claimant.

The Panel has assessed \$2,250.00 of the forum fees jointly and severally to Respondents PEG, Culver and Kay.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to: additional copies of arbitrator awards; copies of audio transcripts; retrieval of documents from archives; interpreters; and, security.

No administrative costs were incurred in this matter.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,550.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 1,125.00

Respondent PEG is solely liable for:

<u>Member Fees</u>	= \$ 5,200.00
<u>Total Fees</u>	= \$ 5,200.00
<u>Less payments</u>	= \$ 4,450.00
Balance Due NASD Dispute Resolution	= \$ 750.00

Respondents PEG, Culver and Kay are jointly and severally liable for:

<u>Adjournment Fees</u>	= \$ 1,125.00
<u>Three-day Cancellation Fees</u>	= \$ 300.00
<u>Forum Fees</u>	= \$ 2,250.00
<u>Total Fees</u>	= \$ 3,675.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,675.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Sabrina Raquel Scott, Esq.	-	Public Arbitrator, Presiding Chairperson
William E. Beringer, Esq.	-	Public Arbitrator
Perry Lee Taylor, Jr., Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/	02/18/05
<u>Sabrina Raquel Scott, Esq.</u> Public Arbitrator, Presiding Chairperson	<u>Signature Date</u>
/s/	02/21/05
<u>William E. Beringer, Esq.</u> Public Arbitrator	<u>Signature Date</u>
/s/	02/18/05
<u>Perry Lee Taylor, Jr., Esq.</u> Non-Public Arbitrator	<u>Signature Date</u>

02/24/05

Date of Service (For NASD Dispute Resolution office use only)

FEB. 18. 2005 12:23PM NASD

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Respondent PBG is solely liable for:

<u>Member Fees</u>	= \$ 5,200.00
<u>Total Fees</u>	= \$ 5,200.00
<u>Less payments</u>	= \$ 4,450.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 750.00

Respondents PBG, Culver and Kay are jointly and severally liable for:

<u>Adjournment Fees</u>	= \$ 1,125.00
<u>Three-day Cancellation Fees</u>	= \$ 300.00
<u>Forum Fees</u>	= \$ 2,250.00
<u>Total Fees</u>	= \$ 3,675.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 3,675.00

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William E. Beringer, Esq.	-	Public Arbitrator
Perry Lee Taylor, Jr., Esq.	-	Non-Public Arbitrator

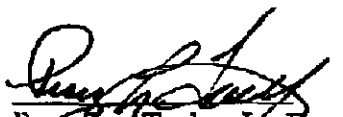
Concurring Arbitrators' Signatures

 Sabrina Raquel Scott, Esq.
 Public Arbitrator, Presiding Chairperson

 Signature Date

 William E. Beringer, Esq.
 Public Arbitrator

 Signature Date


 Perry Lee Taylor, Jr., Esq.
 Non-Public Arbitrator

18 Feb 05
 Signature Date

 Date of Service (For NASD Dispute Resolution office use only)

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Arbitration No. 03-05775
Stipulated Award Page 5**

Respondent PEG is solely liable for:

<u>Member Fees</u>	= \$ 5,200.00
<u>Total Fees</u>	= \$ 5,200.00
<u>Less payments</u>	= \$ 4,450.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 750.00

Respondents PEG, Culver and Kay are jointly and severally liable for:

<u>Adjournment Fees</u>	= \$ 1,125.00
<u>Three-day Cancellation Fees</u>	= \$ 300.00
<u>Forum Fees</u>	= \$ 2,250.00
<u>Total Fees</u>	= \$ 3,675.00
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Sabrina Raquel Scott, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

William E. Beringer
William E. Beringer, Esq.
Public Arbitrator

2-21-05
Signature Date

Perry Lee Taylor, Jr., Esq.
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
Arbitration No. 03-05775
Stipulated Award Page 5

Respondent PEG is solely liable for:

<u>Member Fees</u>	= \$ 5,200.00
<u>Total Fees</u>	= \$ 5,200.00
<u>Less payments</u>	= \$ 4,450.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 750.00

Respondents PEG, Culver and Kay are jointly and severally liable for:

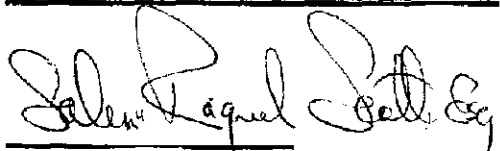
<u>Adjournment Fees</u>	= \$ 1,125.00
<u>Three-day Cancellation Fees</u>	= \$ 300.00
<u>Forum Fees</u>	= \$ 2,250.00
<u>Total Fees</u>	= \$ 3,675.00
<u>Less payments</u>	= \$ 0.00
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