

STIPULATED AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

James W. Prag and A. Margaret Prag

and

Case Number: 04-01159

Hearing Site: Nashville, Tennessee

Names of Respondents

Equable Securities Corporation and
Patrick A. Schultz

NATURE OF CASE

Customers v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Claimants, James W. Prag and A. Margaret Prag, were represented by E. Jerome Melson, Esq., of Gentry, Tipton, Kizer & McLemore, P.C., located in Knoxville, Tennessee.

Respondent, Equable Securities Corporation, ("Equable") was represented by James A. McGovern, Esq., of Marshall, Dennehey, Warner, Coleman & Goggin, located in Pittsburgh, Pennsylvania.

Respondent, Patrick A. Schultz, ("Schultz") was represented by David A. Baugh, Esq., of Mora, Baugh, Waitzman & Unger, LLC, located in Chicago, Illinois.

CASE INFORMATION

The Statement of Claim was filed on or about February 23, 2004. The Submission Agreements of Claimants, James W. Prag and A. Margaret Prag, were signed on or about February 20, 2004. Claimants' Memorandum in Opposition to Respondent Equable's Motion to Dismiss was filed on about June 10, 2004.

The Statement of Answer and Motion to Dismiss was filed by Respondent, Equable Securities Corporation, on or about May 21, 2004. The Submission Agreement of Respondent, Equable Securities Corporation, was signed on or about May 18, 2004.

The Statement of Answer was filed by Respondent, Patrick A. Schultz, on or about May 25, 2004. The Submission Agreement of Respondent, Patrick A. Schultz, was signed on or about April 14, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: negligence; suitability and breach of fiduciary duty. The causes of action related to the recommendations and purchase of a variable annuity. Claimants alleged that Respondents' recommendation of investments with an aggressive growth profile was negligent, unsuitable and professionally inappropriate in light of the Claimants' goals.

Unless specifically admitted in its Answer, Respondent Equable denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim failed to state a claim upon which relief can be granted; Claimants' actions and/or inactions, under the circumstances, constitute a ratification of all complained of activity and, therefore, Claimants has waived all claims there under; Claimants are barred from bringing such claims under the doctrines of estoppel and/or laches against Respondents; and any alleged losses which may have occurred were the direct result of conditions and other factors beyond the control of Respondents.

Unless specifically admitted in his Answer, Respondent Schultz denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim failed to state a claim upon which relief can be granted against Schultz; Mr. Prag was advised, knew, understood and voluntarily assumed the risks of his investments, portfolio allocation and investment strategy; Mr. Prag had prior investment experience, controlled his account and is estopped or otherwise barred from recovering against Schultz; Mr. Prag approved, accepted and/or ratified all of the investments in his account including investment allocation; and therefore, Mr. Prag is estopped or otherwise barred from recovering against Schultz.

RELIEF REQUESTED

Claimants requested the following relief:

Actual Compensatory Damages	\$99,779.13
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary Relief	unspecified

Respondent, Equable Securities Corp., requested that the claims asserted against it be denied in their entirety and that they be awarded their costs and attorneys' fees.

Respondent Schultz requested that the claims asserted against him be denied in their entirety and that he be awarded costs and attorneys' fees. Respondent also requested that an award or order recommending an expungement be entered as to all claims attempted to be asserted against him.

OTHER ISSUES CONSIDERED & DECIDED

On or about June 9, 2004, Claimants voluntarily dismissed all claims, express or implied, asserted on behalf of A. Margaret Prag.

In accordance with Rule 10308 of the NASD Code of Arbitration Procedure (hereinafter the "Code"), the parties stipulated and agreed that this matter would be heard by a single arbitrator, the Panel Chairperson, after the initial pre-hearing conference and that any Award would be entered by a single arbitrator, the Panel Chairperson (hereinafter referred to as the "Panel"). 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 parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

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

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain 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 person at the time of the events giving rise to the dispute. In this matter, the member firm is Equable Securities Corporation.

Member surcharge = \$1,100.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$1,700.00

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:

One (1) Pre-hearing session x \$750.00 = \$ 750.00
Pre-hearing conference:

August 11, 2004 1 session
Total Forum Fees = \$ 750.00

The Arbitration Panel has assessed \$250.00 of the forum fees jointly and severally to James W. Prag and A. Margaret Prag.

The Arbitration Panel has assessed \$250.00 of the forum fees to Equable Securities Corporation.

The Arbitration Panel has assessed \$250.00 of the forum fees to Patrick A. Schultz.

Fee Summary

Claimants, James W. Prag and A. Margaret Prag, are jointly and severally liable for:

Initial Filing Fee = \$ 225.00
Forum Fees = \$ 250.00

Total Fees	= \$ 475.00
<u>Less payments</u>	<u>= \$ 1,725.00</u>
Refund due to Claimants	= \$ 1,250.00

Respondent, Equable Securities Corporation, is liable for:

Member Fees	= \$3,550.00
<u>Forum Fees</u>	<u>= \$ 250.00</u>
Total Fees	= \$3,800.00
<u>Less payments</u>	<u>= \$5,250.00</u>
Refund due to Respondent, Equable	= \$1,450.00

Respondent, Patrick A. Schultz, is liable for:

<u>Forum Fees</u>	<u>= \$250.00</u>
Total Fees	= \$ 250.00
<u>Less payments</u>	<u>= \$ 250.00</u>
Balance Due NASD Dispute Resolution	= \$ 000.00

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

ARBITRATOR

Daniel Thomas Burns, Esq. - Public Arbitrator, Presiding Chair

Presiding Arbitrator:

/s/ Daniel Thomas Burns, Esq.
Daniel Thomas Burns, Esq.
Public Arbitrator, Presiding Chair

05/24/05
Signature Date

05/24/05
Date of Service (For NASD office use only)

Total Fees	= \$ 475.00
<u>Less payments</u>	<u>= \$ 1,725.00</u>
Refund due to Claimants	= \$ 1,250.00

Respondent, Equable Securities Corporation, is liable for:

Member Fees	= \$3,550.00
<u>Forum Fees</u>	<u>= \$ 250.00</u>
Total Fees	= \$3,800.00
<u>Less payments</u>	<u>= \$5,250.00</u>
Refund due to Respondent, Equable	= \$1,450.00

Respondent, Patrick A. Schultz, is liable for:

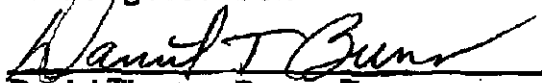
<u>Forum Fees</u>	<u>= \$250.00</u>
Total Fees	= \$ 250.00
<u>Less payments</u>	<u>= \$ 250.00</u>
Balance Due NASD Dispute Resolution	= \$ 000.00

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

ARBITRATOR

Daniel Thomas Burns, Esq. - Public Arbitrator, Presiding Chair

Presiding Arbitrator:



Daniel Thomas Burns, Esq.
Public Arbitrator, Presiding Chair


Signature Date

Date of Service (For NASD office use only)