
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Louise S. Tyler n/k/a Louise S. Guarino

Case Number: 04-01443

Names of the Respondents

Prudential Securities Incorporated
a/k/a Prudential Equity Group, Inc.
Andrew Wunsch
Steven G. Nash
David H. Mellon

Hearing Site: Orlando, Florida

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

REPRESENTATION OF PARTIES

For Louise S. Tyler n/k/a Louise S. Guarino, hereinafter referred to as "Claimant": Robert F. Guarino, Inverness, Florida. On or about June 29, 2004, Christopher J. Bebel, Esq., Christopher Bebel Esq. P.C., Houston, Texas, appeared as counsel. On or about September 11, 2004, Thomas F. Shine, Esq. appeared as co-counsel.

For Prudential Securities Incorporated a/k/a Prudential Equity Group, Inc. ("Prudential"), Andrew Wunsch ("Wunsch"), Steven G. Nash ("Nash") and David H. Mellon ("Mellon"), hereinafter collectively referred to as "Respondents": Benjamin J. Lambiotte, Esq., Garvey Schubert Barer, Washington, D.C., and William T. Lamp'l, Esq., Zarco Enihorn Salkowski & Brito, P.A., Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: March 3, 2004.

Claimant signed the Uniform Submission Agreement on: February 25, 2004.

Statement of Answer filed by Respondent Mellon on or about: April 19, 2004.

Statement of Answer filed by Respondents Prudential, Nash and Wunsch on or about: May 26, 2004.

Supplement to Statement of Answer filed by Respondent Mellon on or about: May 26, 2004.

Motion to Dismiss filed by Respondent Nash on or about: May 26, 2004.

Renewed Motion to Dismiss filed by Respondent Nash on or about: May 4, 2005.

Respondent Prudential signed the Uniform Submission Agreement on: July 13, 2004.

Respondent Wunsch signed the Uniform Submission Agreement on: July 2, 2004.

Respondent Nash signed the Uniform Submission Agreement on: June 30, 2004.

Respondent Mellon signed the Uniform Submission Agreement on: April 30, 2004.

Claimant's Response to Respondent Mellon's Statement of Answer filed on or about: May 3, 2004.

Claimant's Response to Joint Statement of Answer filed on or about: June 4, 2004.

CASE SUMMARY

Claimant alleged the following causes of action: 1) suitability; 2) excessive commissions/fees charged; and 3) negligence. The causes of action relate to investments in various securities, including Arisoft, Inc.; Chyron Corp.; e-Globe; and Gartner Group, Inc.

Unless specifically admitted in their Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimant requested: 1) compensatory damages in an amount at least of \$520,889.00; 2) punitive damages; 3) interest in the approximate amount of \$402,265.00; 4) costs and attorneys' fees in an amount at least of \$9,349.30; and 5) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondents Prudential, Nash and Wunsch requested in their Statement of Answer: 1) dismissal, with prejudice, of all claims; 2) reasonable attorneys' fees and costs associated with defense against Claimant's claims; 3) expungement of all reference to the above captioned arbitration from Respondents Mellon, Wunsch and Nash's registration records maintained by the NASD Central Registration Depository ("CRD"); and 4) such other relief the Panel deemed just and proper.

Respondent Nash requested in his Motion to Dismiss and Renewed Motion to Dismiss: 1) dismissal, with prejudice, of the Statement of Claim in its entirety; 2) an affirmative finding that Respondent Nash had no involvement in the sales practice and supervisory violations alleged against Respondents relating to any period prior to December 1, 2000, that it is factually impossible for him to be held responsible for such violations, and that the claims asserted specifically against him are merit less and clearly erroneous; and 3) expungement of all reference to the above captioned arbitration from Respondent Nash's registration records maintained by the NASD CRD.

OTHER ISSUES CONSIDERED AND DECIDED

On or about October 15, 2004, the Panel granted the parties' joint request to postpone the evidentiary hearing scheduled for November 30 – December 3, 2004. The Panel assessed the adjournment fee in the amount of

\$1,200.00 as follows: \$600.00 to Claimant and \$600.00 jointly and severally to Respondents.

On or about February 24, 2005, Claimant filed a Motion for Sanctions, Disciplinary Referral and Other Remedial Measures. On or about April 20, 2005, Respondents filed their written response to the motion. On or about May 2, 2005, the Panel deferred the motion until the conclusion of the evidentiary hearing.

On or about March 11, 2005, the parties' filed a Joint Request for Order of Abeyance. On or about March 17, 2005, the Panel granted the motion.

On or about May 4, 2005, Respondent Nash filed his Renewed Motion to Dismiss.

On or about May 9, 2005, the parties filed their joint request to postpone the evidentiary hearing scheduled for June 7 – 10, 2005 in order to mediate through NASD Dispute Resolution. Pursuant to Rule 10403 of the NASD Code of Arbitration Procedure (the "Code"), NASD Dispute Resolution adjourned the evidentiary hearing and waived the adjournment fee in the amount of \$1,500.00.

On or about September 9, 2005, Claimant filed a notice of settlement.

On or about December 5, 2005, Respondent Nash filed his Expedited Request to Reconvene and for Dismissal and Expungement Findings. On or about December 23, 2005, Claimant filed a response and joined with Respondent Nash's motion. On or about January 1, 2006, the Panel: 1) denied Respondent Nash's Motion to Re-Open Case; 2) dismissed, with prejudice, Claimant's claims against Respondent Nash; 3) found that Respondent Nash had no involvement in the above-captioned arbitration proceeding; and 4) expunged all reference to the above-captioned arbitration proceeding from Respondent Nash's CRD record.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings and Respondent Nash's Expedited Request to Reconvene and for Dismissal and Expungement Findings, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims against Respondent Nash are dismissed, with prejudice.
2. The Panel finds that Respondent Nash had no involvement in the above-captioned arbitration proceeding.
3. The Panel recommends expungement of all references to the above-captioned arbitration proceeding from Respondent Nash's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Nash must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$ 375.00

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. Accordingly, Respondent Prudential is a member firm and a party.

Member surcharge = \$2,250.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

On or about October 15, 2004, the Panel granted the parties' joint request to postpone the evidentiary hearing scheduled for November 30 – December 3, 2004. The Panel assessed the adjournment fee in the amount of \$1,200.00 as follows: \$600.00 to Claimant and \$600.00 jointly and severally to Respondents.

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:

There were no three-day cancellation fees assessed during these proceedings.

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.

There were no injunctive relief fees assessed during these proceedings.

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 a single arbitrator @ \$450.00 per session = \$1,800.00

Pre-hearing conferences: September 28, 2004 1 session

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October 6, 2004	1 session
January 27, 2005	1 session
February 10, 2005	1 session

One (1) Pre-hearing session with Panel @ \$1,200.00 per session	= \$1,200.00
Pre-hearing conference: June 30, 2004 1 session	

Total Forum Fees	= \$3,000.00
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The Panel has assessed forum fees in the amount of \$1,950.00 to Claimant.

The Panel has assessed forum fees in the amount of \$1,050.00 jointly and severally to Respondents Prudential, Wunsch, Nash and Mellon.

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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 375.00
Adjournment Fee	= \$ 600.00
<u>Forum Fees</u>	<u>= \$1,950.00</u>
Total Fees	= \$2,925.00
<u>Less payments</u>	<u>= \$2,925.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Prudential is solely 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

Respondents are jointly and severally liable for:

Adjournment Fee	= \$ 600.00
<u>Forum Fees</u>	<u>= \$1,050.00</u>
Total Fees	= \$1,650.00
<u>Less payments</u>	<u>= \$1,650.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

<i>Benita Sirkin</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Susan Jefferbaum Beck</i>	-	<i>Public Arbitrator</i>
<i>Angelo J. Infantino</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

_____/s/_____
Benita Sirkin
Public Arbitrator, Presiding Chairperson

January 5, 2006
Signature Date

_____/s/_____
Susan Jefferbaum Beck
Public Arbitrator

January 6, 2006
Signature Date

_____/s/_____
Angelo J. Infantino
Non-Public Arbitrator

January 6, 2006
Signature Date

January 6, 2006
Date of Service (For NASD Dispute Resolution office use only)

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Susan Jefferbaum Beck

Angelo J. Infantino

- Public Arbitrator, Presiding Chairperson

- Public Arbitrator

- Non-Public Arbitrator

Concurring Arbitrators' Signatures



Benita Sirkin

Public Arbitrator, Presiding Chairperson

01/05/06

Signature Date

Susan Jefferbaum Beck

Public Arbitrator

Signature Date

Angelo J. Infantino

Non-Public Arbitrator

Signature Date

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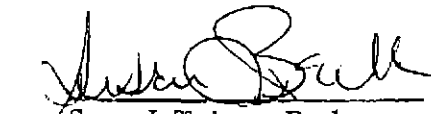
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Benita Sirkin
Public Arbitrator, Presiding Chairperson

Signature Date



Susan Jefferbaum Beck
Public Arbitrator

1-6-06

Signature Date

Angelo J. Infantino
Non-Public Arbitrator

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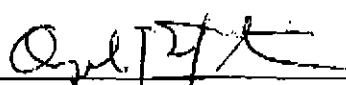
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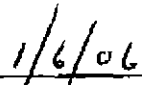
Signature Date

Susan Jefferbaum Beck
Public Arbitrator

Signature Date



Angelo J. Infantino
Non-Public Arbitrator



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