

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Ronald L. Altany, Executor for
The Estate of Marilyn C. Altany

Case Number: 04-01863

Name of the Respondent
Prudential Equity Group, LLC

Hearing Site: Pittsburgh, Pennsylvania

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

Claimant, Ronald L. Altany, Executor for the Estate of Marilyn C. Altany, hereinafter referred to as "Claimant", was represented by Robert B. Sommer, Esq., Hergenroeder, Rega and Sommer, LLC, Pittsburgh, Pennsylvania.

Respondent, Prudential Equity Group, LLC, hereinafter referred to as "Respondent", was represented by Marci B. Gold, Esq., Prudential Equity Group, LLC., New York, New York.

CASE INFORMATION

Statement of Claim filed on March 13, 2004.

Amended Statement of Claim filed on September 22, 2004.

Claimant signed the Uniform Submission Agreement on March 3, 2004.

Statement of Answer filed by Respondent on August 6, 2004.

A representative of Respondent signed the Uniform Submission Agreement on August 6, 2004.

On September 22, 2004, the parties agreed to have one arbitrator decide this matter solely on the pleadings.

CASE SUMMARY

Claimant, in his Statement of Claim and Amended Statement of Claim asserted the following causes of action, among others: breach of contract, breach of duty of care, failure to supervise, and violations of the Pennsylvania Unfair Trade Practices and Consumer Protection Law. The causes of action relate to alleged errors in the preparation of forms related to variable annuities held in Claimant's account.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted, Claimant authorized all transactions in the account,

ratification, assumption of risk, Claimant's claims are barred by the applicable statutes of limitations, failure to mitigate damages, and Claimant has failed to establish a fiduciary relationship.

RELIEF REQUESTED

Claimant in his Amended Statement of Claim requested compensatory damages in the amount of forty-eight thousand, three hundred and three dollars and twenty-eight cents (\$48,303.28), treble damages, attorneys' fees, interest, and other costs.

Respondent in its Statement of Answer requested that Claimant's claim be denied in its entirety, and that all costs associated with this claim be assessed against Claimant.

AWARD

After considering the pleadings, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Prudential shall pay to Claimant compensatory damages in the amount of five thousand dollars and zero cents (\$5,000.00);
2. Respondent Prudential shall pay to Claimant three hundred dollars and zero cents (\$300.00) as reimbursement for Claimant's filing fee;
3. All claims for treble damages and attorneys' fees are denied in their entirety;
4. The parties shall bear their respective costs, except as Fees are specifically addressed below; and
5. Any and all relief not specifically addressed herein is denied in its entirety.

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

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Prudential is a party.

Member surcharge = \$ 1,700.00

<u>Pre-hearing process fee</u>	= \$ 750.00
Total Member Fees	= \$ 2,450.00

Forum Fees

Pursuant to the Code of Arbitration Procedure (the "Code") Rule 10332, the Arbitrator has assessed the following forum fees:

The Arbitrator has assessed \$ 450.00 of the forum fees to Respondent.

FEE SUMMARY

1. Claimant is assessed and shall pay:

<u>Initial Filing Fee</u>	= \$ 300.00
Total Fees	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
Refund owed to Claimant	= \$ 1,125.00
2. Respondent is assessed and shall pay:

Member Fees	= \$ 2,450.00
<u>Forum Fees</u>	= \$ 450.00
Total Fees	= \$ 2,900.00
<u>Less payments</u>	= \$ 2,450.00
Balance Due NASD Dispute Resolution	= \$ 450.00

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

SOLE ARBITRATOR

Robert Charkovsky, Esq.

- Public Arbitrator, Sole Arbitrator

Sole Arbitrator's Signature

Robert Charkovsky

Robert Charkovsky, Esq.
Public Arbitrator, Sole Arbitrator

November 24, 2004

Signature Date

November 26, 2004

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