

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

William L. Barth, on Behalf of the William L. Barth IRA Rollover Dated 3/9/99 and IRA Rollover Dated 9/22/99, Claimant v. Wachovia Securities, LLC, Prudential Equity Group, LLC f/k/a Prudential Securities, Inc., and David Harrison Rascoe, Respondents

Case Number: 04-05286

Hearing Site: San Diego, California

Nature of the Dispute: Customer v. Members and Associated Person

REPRESENTATION OF PARTIES

For Claimant:

Mark Steven Kessler, Esq.
Law Offices of Mark Steven Kessler
Escondido, California

For Respondent Wachovia Securities, LLC:

Jean D. Jumet
Wachovia Securities, LLC
Glen Allen, Virginia

For Respondents Prudential Equity Group, LLC
f/k/a Prudential Securities, Inc.
(Prudential Equity Group, LLC) and
David Harrison Rascoe:

Fernanda Lai Schmid, Esq.
Thomas P. Laffey, Esq.
Folger Levin & Kahn LLP
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: July 20, 2004

Claimant's Uniform Submission Agreement signed: July 19, 2004

Joint Statement of Answer filed by Respondents Prudential Equity Group, LLC and David Harrison Rascoe: September 29, 2004

Respondent Prudential Equity Group, LLC's Uniform Submission Agreement received:
September 29, 2004

Respondent David Harrison Rascoe's Uniform Submission Agreement signed: October 25, 2004

CASE SUMMARY

Claimant alleged breach of fiduciary duty, violation of federal and state securities laws, fraud and deceit, violation of California Unfair Business Practices Act, negligent misrepresentation, and professional negligence as an Investment Advisor, involving unspecified securities.

Unless specifically admitted in its Answer, Respondents Prudential Equity Group, LLC and David Harrison Rascoe denied the allegations made in the Statement of Claim and asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested unspecified actual damages, punitive or exemplary damages in an amount of at least two times the loss in capital, "capital appreciation that would have been obtained by the accounts through the continued and suitable investments during the time the accounts were with Respondents and under their control", emotional distress damages, an order enjoining Respondents from engaging in the activities alleged in the claim and requiring Respondents to disgorge any profits to Claimants by a means of such conduct, pre-award and post-award interest, and costs, including attorney's fees.

Respondents Prudential Equity Group, LLC and David Harrison Rascoe requested dismissal of the Claimant's Statement of Claim in its entirety, costs, and that the Arbitrators order that any reference to this matter be expunged from their Central Registration Depository (CRD) records.

OTHER ISSUES CONSIDERED AND DECIDED

On August 27, 2004, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On October 12, 2004, NASD Dispute Resolution received a dismissal against Wachovia Securities, LLC.

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Prudential Equity Group, LLC is liable to and shall pay Claimant \$75,000.00 in compensatory damages.
- 2) Respondent Prudential Equity Group, LLC is liable to and shall pay Claimant interest on the sum of \$75,000.00 at the rate of 10% per annum from September 7, 2004 to August 31, 2005.
- 3) Respondent Prudential Equity Group, LLC is liable to and shall pay Claimant \$5,500.00 for expert witness fees.
- 4) Respondent Prudential Equity Group, LLC is liable to and shall pay Claimant \$250.00 as reimbursement for filing fee.
- 5) Respondent David Harrison Rascoe is dismissed with prejudice.
- 6) Claimant's request for punitive and exemplary damages is denied.
- 7) The parties shall bear their respective costs, including attorney's fees.
- 8) All other relief requested and not expressly granted is denied.

FEEs

Pursuant to the *Code of Arbitration Procedure* ("Code"), the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 250.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Prudential Equity Group, LLC is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 2,200.00</u>
Total Member Fees	= \$ 4,450.00

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:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,000.00/session	= \$ 2,000.00
Pre-hearing conferences:	
December 16, 2004	1 session
June 3, 2005	1 session
Six (6) Hearing sessions @ \$1,000.00/session	= \$ 6,000.00
Hearings:	
August 29, 2005	2 sessions
August 30, 2005	2 sessions
August 31, 2005	2 sessions
Total Forum Fees	= \$ 8,000.00

The Panel assessed \$8,000.00 of the forum fees jointly and severally to Respondents Prudential Equity Group, LLC and David Harrison Rascoe.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 250.00
<u>Less payments</u>	<u>= \$(1,425.00)</u>
Refund Due Claimant	= \$(1,175.00)

2. Respondent Prudential Equity Group, LLC is charged with the following fees and costs:

Member Fees	= \$ 4,450.00
<u>Less payments</u>	<u>= \$(4,450.00)</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents Prudential Equity Group, LLC and David Harrison Rascoe are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 8,000.00
<u>Less Payments by Prudential Equity Group, LLC</u>	<u>= \$(750.00)</u>
Balance Due NASD Dispute Resolution	= \$ 7,250.00

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

ARBITRATION PANEL

Ronald O. Bub, Sr.	-	Public Arbitrator, Presiding Chair
L. William McGrath, Jr.	-	Public Arbitrator
Steven A. Fox	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Ronald O. Bub

Ronald O. Bub, Sr.
Chair, Public Arbitrator

9-2-05

Signature Date

L. William McGrath, Jr.
Public Arbitrator

Signature Date

Steven A. Fox
Non-Public Arbitrator

Signature Date

September 6, 2005
Date of Service

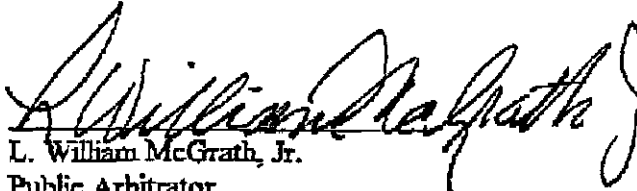
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Chair, Public Arbitrator

Signature Date


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Public Arbitrator

9-3-05
Signature Date

Steven A. Fox
Non-Public Arbitrator

Signature Date

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Public Arbitrator

Signature Date



Steven A. Fox
Non-Public Arbitrator

9-6-05

Signature Date

September 6, 2005

Date of Service