

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

James R. Jankowski

and

Case Number: 04-05550

Hearing Site: Oklahoma City, Oklahoma

Names of Respondents

Prudential Equity Group, LLC,  
Wachovia Securities, LLC,  
Jeffrey Scott Roblyer, and  
Michael E. Murray

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**NATURE OF DISPUTE**

Customer v. Members and Associated Persons

**REPRESENTATION OF PARTIES**

James R. Jankowski ("Claimant") was represented by John M. Hickey, Esq., Barber & Bartz, Tulsa, Oklahoma.

Prudential Equity Group, LLC ("Prudential"), Jeffrey Scott Roblyer ("Roblyer"), and Michael E. Murray ("Murray"), were represented by David A. Picon, Esq., Proskauer Rose, LLP, New York, New York.

Wachovia Securities, LLC, ("Wachovia"), was represented by Kevin B. Hurley, Esq., Wachovia Securities, LLC, Richmond, Virginia.

**CASE INFORMATION**

The Statement of Claim was filed on or about August 5, 2004. The Submission Agreement of Claimant was signed on or about August 4, 2004.

A Statement of Answer was filed jointly by Prudential, Roblyer and Murray, on or about November 19, 2004. The Submission Agreement of Prudential was signed on or about September 8, 2004. The Submission Agreement of Roblyer was signed on or about February 15, 2005. The Submission Agreement of Murray was signed on or about February 16, 2005.

### **CASE SUMMARY**

Claimant asserted the following causes of action: fraud; unsuitable recommendations; failure to supervise; and misrepresentations/non-disclosures. The causes of action related to the recommendation and purchases of securities investments such as Williams Companies, Inc., Schlumberger, EMC, Sun Microsystems, Vodafone, Coca-Cola and McDonalds stocks. Claimant alleged that Respondents failed to diversify his portfolio in light of his investment objectives and risk tolerance, which led to substantial losses in his account.

Unless specifically admitted in their Answer, Respondents, Prudential, Roblyer and Murray, denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim failed to state a claim upon which relief can be granted; Claimant approved, authorized and ratified the acts complained of and, accordingly, is precluded from asserting the same as a basis for recovery; Claimant's losses were the result of his own conduct, and, accordingly, are barred, in whole or in part, by the doctrines of a contributory negligence and/or comparative negligence.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$802,580.00 in compensatory damages, plus \$802,580.00 in punitive damages, interest, costs, attorneys' fees and for such further relief as the panel deemed just and proper.

Respondents, Prudential, Roblyer and Murray, requested that the claims asserted against them be denied in their entirety and that they be awarded costs, attorneys' fees, and for such further relief as the panel deemed just and proper. Respondents, Prudential, Roblyer and Murray, also requested that the panel enter an order recommending the expungement of this matter from the form U-4s of Respondents, Roblyer's and Murray's CRD record.

### **OTHER ISSUES CONSIDERED & DECIDED**

On or about September 29, 2004, Claimant dismissed Respondent, Wachovia Securities, LLC, from the case without prejudice.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent, Prudential Equity Group, LLC, is liable for and shall pay to Claimant, James R. Jankowski, the sum of \$322,465.50 in compensatory damages;
- 2) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3) 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 fee for each claim:

Initial claim filing fee = \$ 500.00

#### **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 persons at the time of the events giving rise to the dispute. In this matter, the member firms are Prudential Equity Group, LLC, and Wachovia Securities, LLC. (surcharge only)

Member surcharge = \$2,800.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$5,000.00

#### **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 with a single arbitrator x \$450.00	= \$ 450.00
Pre-hearing conference: August 18, 2005 1 session	
One (1) Pre-hearing session with Panel x \$1,200.00	= \$ 1,200.00
Pre-hearing conference: February 15, 2005 1 session	
Five (5) Hearing sessions x \$1,200.00	= \$ 6,000.00
Hearing Dates: September 27, 2005 2 sessions	
September 28, 2005 2 sessions	
September 29, 2005 1 session	
<b>Total Forum Fees</b>	<b>= \$ 7,650.00</b>

The Arbitration Panel has assessed \$3,825.00 of the forum fees to James R. Jankowski.

The Arbitration Panel has assessed \$3,825.00 of the forum fees to Prudential Equity Group, LLC.

#### **Fee Summary**

Claimant, James R. Jankowski, is liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 3,825.00
<b>Total Fees</b>	<b>= \$ 4,325.00</b>
Less payments	= \$ 1,700.00
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 2,625.00</b>

Respondent, Prudential Equity Group, LLC, is liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 3,825.00
<b>Total Fees</b>	<b>= \$12,375.00</b>
Less payments	= \$13,550.00
<b>Refund due to Prudential</b>	<b>= \$ 1,175.00</b>

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

**ARBITRATION PANEL**

John K. Ulrey – Public Arbitrator, Presiding Chair  
Wilburta Ann Willey - Public Arbitrator  
Michael R. Prescott, Esq. - Non-Public Arbitrator

**Concurring Arbitrators:**

/s/ John K. Ulrey  
John K. Ulrey  
Public Arbitrator, Presiding Chair

10/06/05  
Signature Date

/s/ Wilburta Ann Willey  
Wilburta Ann Willey  
Public Arbitrator

10/05/05  
Signature Date

/s/ Michael R. Prescott, Esq.  
Michael R. Prescott, Esq.  
Non-Public Arbitrator

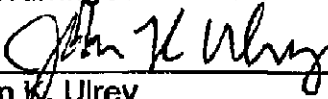
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10/06/05  
Date of Service (For NASD office use only)

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Wilburta Ann Willey  
Public Arbitrator

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Signature Date

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*Michael R. Prescott*  
Michael R. Prescott, Esq.  
Non-Public Arbitrator

\_\_\_\_\_  
5 Oct 2005  
Signature Date

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Date of Service (For NASD office use only)