
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Darlene A. Schwartz

Case Number: 04-05726

Names of the Respondents

Wachovia Securities, LLC

Prudential Securities Inc.

d/b/a Prudential Equity Group, LLC

Hearing Site: Orlando, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Darlene A. Schwartz, hereinafter referred to as "Claimant": Philip J. Snyderburn, Esq., Snyderburn, Rishoi & Swann, Maitland, Florida.

For Wachovia Securities, LLC, hereinafter referred to as "Respondent Wachovia": Kevin B. Hurley, Senior Vice President and Chief Litigation Counsel with Respondent Wachovia, Richmond, Virginia.

For Prudential Securities Inc. d/b/a Prudential Equity Group, LLC, hereinafter referred to as "Respondent Prudential": Debra A. Jenks, Esq., Dobin & Jenks, LLP, Jupiter, Florida.

CASE INFORMATION

Statement of Claim filed on or about: August 10, 2004.

First Amended Statement of Claim filed on or about: September 22, 2004.

Claimant signed the Uniform Submission Agreement on: July 28, 2004.

Statement of Answer and Affirmative Defenses filed by Respondent Prudential on or about: November 3, 2004.

Respondent Prudential signed the Uniform Submission Agreement on: October 22, 2004.

Response filed by Respondent Wachovia on or about: September 17, 2004.

Respondent Wachovia did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant alleged the following causes of action: 1) fraudulent inducement; 2) breach of fiduciary duty; 3) negligence; and 4) breach of contract. The causes of action relate to unsuitable investments in shares of unspecified mutual funds and a Prudential fixed annuity.

Unless specifically admitted in its Answer, Respondent Prudential denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimant requested: 1) compensatory damages in the amount of \$143,878.00; 2) punitive damages; 3) interest; 4) costs; and 5) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondent Wachovia requested that Claimant voluntary dismiss Respondent Wachovia.

Respondent Prudential requested: 1) that Claimant take nothing against Respondent Prudential; and 2) dismissal, with prejudice, of the Amended Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant filed her initial Statement of Claim against "Wachovia Securities, LLC", as an alleged successor in interest to Prudential Securities Incorporated. On or about September 17, 2004, Respondent Wachovia filed its Response to the Statement of Claim. Respondent Wachovia requested Claimant to voluntary dismiss Respondent Wachovia for being improperly named as a respondent. On or about September 22, 2004, Claimant filed her First Amended Statement of Claim. Claimant amended her Statement of Claim by naming Respondent Prudential, as the successor in interest to Prudential Securities Incorporated, and by dismissing Respondent Wachovia.

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, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Prudential is liable for negligence and shall pay to Claimant compensatory damages in the amount of \$72,000.00, plus interest that shall accrue at the rates set forth in Section 55.03, Florida Statutes from July 1, 2002 through the date of service of the Award.
2. Respondent Prudential is liable and shall pay to Claimant costs in the amount of \$3,089.70.
3. Claimant's request for punitive damages is denied.

4. Any and all claims or relief not specifically addressed herein are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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 = \$ 300.00

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 = \$1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

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:

One (1) Pre-hearing session with Panel @ \$1,125.00 per session = \$1,125.00

Pre-hearing conference:	January 6, 2005	1 session	
Four (4) Hearing sessions @ \$1,125.00 per session			= \$4,500.00
Hearing Dates:	May 17, 2005	2 sessions	
	May 18, 2005	2 sessions	
<hr/>			
Total Forum Fees			= \$5,625.00

The Panel has assessed forum fees in the amount of \$2,812.50 to Claimant and \$2,812.50 to Respondent Prudential.

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	= \$ 300.00
<u>Forum Fees</u>	= \$2,812.50
<u>Total Fees</u>	= \$3,112.50
<u>Less payments</u>	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$1,687.50

Respondent Prudential is solely liable for:

Member Fees	= \$5,200.00
<u>Forum Fees</u>	= \$2,812.50
<u>Total Fees</u>	= \$8,012.50
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$2,812.50

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

ARBITRATION PANEL

<i>Robert J. Walter</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Helen G. Bradley</i>	-	<i>Public Arbitrator</i>
<i>Morton D. Siegel</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

_____/s/_____
Robert J. Walter
Public Arbitrator, Presiding Chairperson

June 2, 2005
Signature Date

_____/s/_____
Helen G. Bradley
Public Arbitrator

June 2, 2005
Signature Date

_____/s/_____
Morton D. Siegel
Non-Public Arbitrator

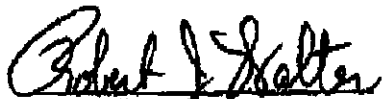
June 1, 2005
Signature Date

June 2, 2005
Date of Service (For NASD Dispute Resolution office use only)

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Concurring Arbitrators' Signatures



Robert J. Waffler
Public Arbitrator, Presiding Chairperson

June 2, 2005
Signature Date

Helen G. Bradley
Public Arbitrator

Signature Date

Morton D. Siegel
Non-Public Arbitrator

Signature Date

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

FROM : BRADLEY

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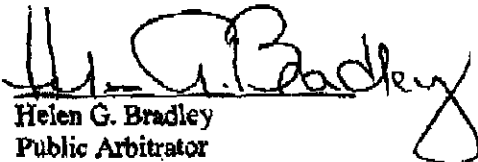
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Concurring Arbitrators' Signatures

Robert J. Walter
Public Arbitrator, Presiding Chairperson


Helen G. Bradley
Public Arbitrator

Signature Date

6/2/5
Signature Date

Morton D. Siegel
Non-Public Arbitrator

Signature Date

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

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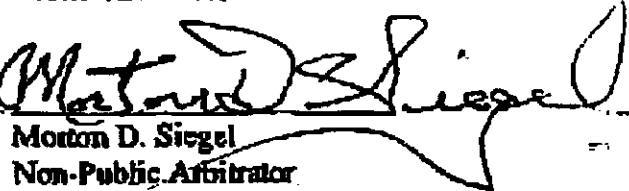
Concurring Arbitrators' Signatures

Robert J. Waller
Public Arbitrator, Presiding Chairperson

Signature Date

Helen G. Bradley
Public Arbitrator

Signature Date


Morton D. Siegel
Non-Public Arbitrator

6/1/05
Signature Date

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

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