

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Sarah Swanson

Case Number: 04-06678

Names of the Respondents
Prudential Securities, Incorporated
W. Gary Floyd

Hearing Site: Atlanta, Georgia

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

REPRESENTATION OF PARTIES

For Sarah Swanson, hereinafter referred to as "Claimant": Edward J. Dovin, Esq., Gard Smiley Bishop & Dovin LLP, Atlanta, Georgia.

For Prudential Securities, Incorporated ("Prudential") and W. Gary Floyd ("Floyd"), hereinafter collectively referred to as "Respondents": John S. Barr, Esq., McGuireWoods LLP, Richmond, Virginia.

CASE INFORMATION

Statement of Claim filed on or about: September 20, 2004.

Claimant signed but did not date the Uniform Submission Agreement.

Statement of Answer filed by Respondents on or about: December 3, 2004.

Respondent Prudential signed the Uniform Submission Agreement: December 10, 2004.

Respondent Floyd signed the Uniform Submission Agreement: February 2, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; negligence/breach of the rules of NASD and NYSE, breach of contract, breach of duty; common law fraud and misrepresentation; violation of the Georgia Securities Act; and, Prudential's liability for Mr. Floyd's acts. The causes of action relate to Claimant's investments in shares of stock of Excite at Home and CMGI.

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

RELIEF REQUESTED

Claimant requested judgment against Respondents as follows: for actual damages of at least \$89,604.52; for punitive damages under O.C.G.A. Section 51-12-5.1(b) and O.C.G.A. Section 17-14-6 in an amount to be determined by the arbitrators; for all of Claimant's costs, expenses, and disbursements, including attorneys' fees, associated with this arbitration; pre-award and post-award interest; and, such other relief as the arbitration panel deemed just and proper.

Respondents requested that the Statement of Claim be dismissed and costs assessed against Claimant. Further, Respondents requested expungement of all references to the above-captioned matter from Respondent Floyd's registration maintained by the NASD Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

Respondents are liable, jointly and severally, and shall pay to Claimant the sum of \$20,000.00, plus interest at the rate of 6% per annum which shall start to accrue 30 days after the date of service of the Award and continue to accrue until the date of payment of the Award.

Respondents are liable, jointly and severally, and shall pay to Claimant the sum of \$2,000.00 in attorneys' fees pursuant to O.C.G.A. Section 13-6-11 and O.C.G.A. Section 10-5-14.

Respondents are liable, jointly and severally, and shall pay to Claimant the sum of \$225.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages and Respondents' request for an expungement, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$225.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$750.00
Hearing process fee	= \$1,700.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred in this matter.

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:

No three-day cancellation fees were incurred in this matter.

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.

No injunctive relief fees were incurred in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Panel @ \$750.00	= \$750.00
Pre-hearing conference: February 1, 2005 1 session	
Five (5) Hearing sessions @ \$750.00	= \$3,750.00
Hearing Dates: September 14, 2005 2 sessions	
September 15, 2005 2 sessions	
September 16, 2005 1 session	
Total Forum Fees	= \$4,500.00

The Panel has assessed \$2,250.00 of the forum fees to Claimant.

The Panel has assessed \$2,250.00 of the forum fees jointly and severally to Respondents.

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

No administrative costs were incurred in this matter.

FEE SUMMARY

Claimant is solely liable for:

Initial Filing Fee	= \$225.00
Forum Fees	= \$2,250.00

Total Fees	= \$2,475.00
Less payments	= \$975.00

Balance Due NASD Dispute Resolution	= \$1,500.00
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Respondent Prudential is solely liable for:

Member Fees	= \$3,550.00
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Total Fees	= \$3,550.00
Less payments	= \$3,550.00

Balance Due NASD Dispute Resolution	= \$0.00
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Respondents are jointly and severally liable for:

Forum Fees	= \$2,250.00
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Total Fees	= \$2,250.00
Less payments	= \$750.00

Balance Due NASD Dispute Resolution	= \$1,500.00
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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

John D. Mattingly, J.D.	-	Public Arbitrator, Presiding Chair
David E. Morris, Sr.	-	Public Arbitrator
John Burke Garrett	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/S/_____
John D. Mattingly, J.D.
Public Arbitrator, Presiding Chair

Signature Date

_____/S/_____
David E. Morris, Sr.
Public Arbitrator

Signature Date

_____/S/_____
John Burke Garrett
Non-Public Arbitrator

Signature Date

September 23, 2005
Date of Service (For NASD Dispute Resolution office use only)

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ARBITRATION PANEL

John D. Mattingly, J.D.

David B. Morris, Sr.

John Burke Garrett

Public Arbitrator, Presiding Chair

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures


John D. Mattingly, J.D.
Public Arbitrator, Presiding Chair

9-20-05
Signature Date

NASD DISPUTE RESOLUTION

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David E. Morris, Sr.
Public Arbitrator


John Burke Garrett
Non-Public Arbitrator

Signature Date

9-21-05
Signature Date

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

SEP.23.2005 8:02AM NASD DISPUTE RESOLUTION

NO.386 P.7

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David E. Morris, Sr.
Public Arbitrator

Signature Date

John Burke Garrett
Non-Public Arbitrator

Signature Date

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