

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of the Claimants

Pravin G. Shah  
Jyotsana P. Shah

Case Number: 04-08666

Name of the Respondent

Wexford Clearing Services, Inc.

Hearing Site: Pittsburgh, Pennsylvania

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Nature of the Dispute: Customers vs. Member

**REPRESENTATION OF PARTIES**

Claimants Pravin G and Jyotsana P. Shah, hereinafter collectively referred to as "Claimants", were represented by Arnold Steinberg, Esq. Pittsburgh, Pennsylvania.

Respondent Wexford Clearing Services, Inc., hereinafter referred to as "Respondent", was represented by Steven Rather, Esq., Proskauer Rose, LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on December 27, 2004.

Claimants signed the Uniform Submission Agreement on November 29, 2004.

Statement of Answer filed by Respondent on April 5, 2005.

A representative of Respondent executed the Uniform Submission Agreement on April 1, 2005.

**CASE SUMMARY**

Claimants asserted the following causes of action, among others: fraud, negligence, and violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law. The causes of action relate to the sale and purchase of variable annuities.

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; ratification; failure to mitigate; contributory negligence; comparative negligence; waiver; lack of standing; and claims are barred by the doctrines of laches, estoppel, unclean hands, *in pari delicto*, and in whole or in part by the applicable statutes of limitations.

**RELIEF REQUESTED**

Claimants in their Statement of Claim requested compensatory damages in the amount of \$350,000.00, treble damages, statutory interest, punitive damages, and costs.

Respondent in its Statement of Answer requested that the claims be dismissed in their entirety, that it be awarded costs and expenses; and any other such relief the Arbitration Panel (the "Panel") deems as just, proper, and equitable.

#### OTHER ISSUES CONSIDERED AND DECIDED

On April 5, 2005, Respondent filed a Motion to Dismiss with their Answer to the Statement of Claim. At the hearing, Respondent withdrew this Motion to Dismiss.

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.

#### AWARD

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

1. All claims against Respondent are denied in their entirety;
2. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
3. Any relief not specifically addressed herein, including punitive damages, 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	= \$ 500.00
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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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent is a party.

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00
Total Member Fees	= \$ 8,550.00

##### Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between

the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel @ \$ 1,200.00	= \$ 2,400.00
Pre-hearing conferences: June 28, 2005 1 session	
September 20, 2005 1 session	
Four (4) Hearing sessions @ \$ 1,200.00	= \$ 4,800.00
Hearing Dates: January 31, 2006 2 sessions	
February 1, 2006 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$ 7,200.00

1. The Panel has assessed \$ 5,400.00 of the forum fees to Claimants.
2. The Panel has assessed \$ 1,800.00 of the forum fees to Respondent.

#### EEE SUMMARY

1. Claimants is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 5,400.00
Total Fees	= \$ 5,900.00
Less payments	= \$ 2,125.00
Balance Due NASD Dispute Resolution	= \$ 3,775.00

2. Respondent is assessed and shall pay the following fees:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 1,800.00
Total Fees	= \$10,350.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 1,800.00

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

#### ARBITRATION PANEL

Larry A. Feldman	- Public Arbitrator, Presiding Chairperson
Richard W. Dissen, Esq.	- Public Arbitrator, Panelist
Donald A. Olszewski	- Non-Public Arbitrator, Panelist

Award Page 4Concurring Arbitrators' Signatures

Larry A. Feldman  
Public Arbitrator, Presiding Chairperson

FEBRUARY 8<sup>th</sup> 2006  
Signature Date

Richard W. Dissen, Esq.  
Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

Donald A. Olaszewski  
Non-Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

2/9/06

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

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Concurring Arbitrators' Signatures

Larry A. Feldman  
Public Arbitrator, Presiding Chairperson

Signature Date



Richard W. Dissen, Esq.  
Public Arbitrator, Panelist

2.8.06  
Signature Date

Donald A. Olszewski  
Non-Public Arbitrator, Panelist

Signature Date

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

Arbitration No. 04-08666

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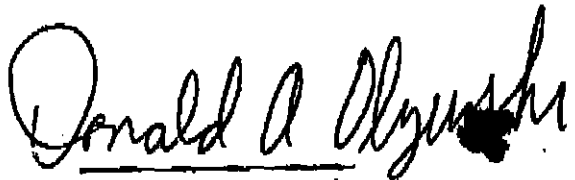
Concurring Arbitrators' Signatures

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Larry A. Feldman  
Public Arbitrator, Presiding Chairperson

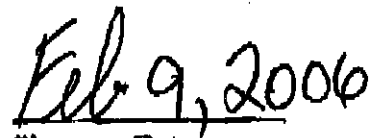
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