

Award
NASD Dispute Resolution

COPY

In the Matter of the Arbitration Between:

Mary E. Mariscal IRA, Claimant v. Prudential Equity Group, LLC and David H. Rascoe,
Respondents

Case Number: 04-08713

Hearing Site: San Diego, California

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

REPRESENTATION OF PARTIES

For Claimant:

Arthur S. Leider
Investors Arbitration Specialists
San Diego, California

For Respondents:

Charles B. LaChaussee, Esq.
Prudential Equity Group, LLC
San Francisco, California

CASE INFORMATION

Statement of Claim filed on or about: December 28, 2004

Claimant's Uniform Submission Agreement signed: September 15, 2004

Joint Statement of Answer filed by Respondents: March 18, 2005

Respondent Prudential Equity Group, LLC's Uniform Submission Agreement signed:
March 18, 2005

Respondent David H. Rascoe's Uniform Submission Agreement signed: March 24, 2005

CASE SUMMARY

Claimant alleged breach of fiduciary duty, negligence, fraudulent misrepresentation and omission, and unsuitable recommendations, involving unspecified securities.

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

RELIEF REQUESTED

In Claimant's Statement of Claim, Claimant requested compensatory damages in the amount of \$75,000.00, unspecified punitive or exemplary damages, pre- and post-award interest, and costs, including representation fees. In Claimant's Revised Prayer For Damages, Claimant requested compensatory damages in the amount of \$93,925.00, unspecified punitive or exemplary damages, pre-award interest at the rate of 10% from October 1999 until the Award is paid, and costs, including representation fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, costs, and that the Panel recommend the expungement of this matter from their Central Registration Depository records.

OTHER ISSUES CONSIDERED AND DECIDED

On September 15, 2004, Claimant and Claimant's representative 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 September 16, 2005, NASD Dispute Resolution received a Stipulation of Dismissal Without Prejudice of Respondent David H. Rascoe.

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 \$55,000.00 in compensatory damages.
- 2) Respondent Prudential Equity Group, LLC is liable to and shall pay Claimant \$225.00 as reimbursement of filing fee.
- 3) Claimant's request for punitive or exemplary damages is denied.
- 4) The parties shall bear their respective costs, including attorney's fees.
- 5) 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	= \$ 225.00
--------------------------	-------------

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	= \$ 1,100.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$ 1,700.00
Total Member Fees	= \$ 3,550.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the 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 conference session with the Panel @ \$750.00/session	= \$ 750.00
Pre-hearing conference: May 4, 2005 1 session	

Five (5) Hearing sessions @ \$750.00/session	= \$ 3,750.00
Hearings: November 8, 2005 2 sessions	
November 9, 2005 2 sessions	
November 10, 2005 1 session	

Total Forum Fees	= \$ 4,500.00
-------------------------	----------------------

The Panel assessed \$4,500.00 of the forum fees to Respondent Prudential Equity Group, LLC.

Fee Summary

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

Initial Filing Fee	= \$ 225.00
<u>Less payments</u>	<u>= \$(975.00)</u>
Refund Due Claimant	= \$(750.00)

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

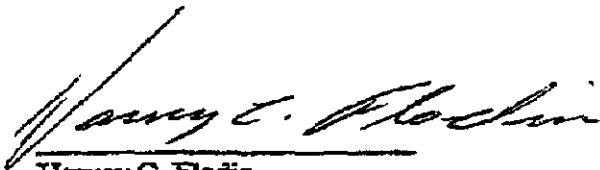
Member Fees	= \$ 3,550.00
<u>Forum Fees</u>	<u>= \$ 4,500.00</u>
Total Fees	= \$ 8,050.00
<u>Less payments</u>	<u>= \$(3,550.00)</u>
Balance Due NASD Dispute Resolution	= \$ 4,500.00

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

Harvey C. Flodin	-	Public Arbitrator, Presiding Chair
Fred T. Kallet	-	Public Arbitrator
Louise A. Berberian	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Harvey C. Flodin
Chair, Public Arbitrator

11/11/05
Signature Date

Fred T. Kallet
Public Arbitrator

Signature Date

Louise A. Berberian
Non-Public Arbitrator

Signature Date

11/11/05
Date of Service

ARBITRATION PANEL

Harvey C. Flodin	-	Public Arbitrator, Presiding Chair
Fred T. Kallet	-	Public Arbitrator
Louise A. Berberian	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Harvey C. Flodin
Chair, Public Arbitrator

Signature Date


Fred T. Kallet
Public Arbitrator


Signature Date

Louise A. Berberian
Non-Public Arbitrator

Signature Date


Date of Service

ARBITRATION PANEL

Harvey C. Flodin	-	Public Arbitrator, Presiding Chair
Fred T. Kallet	-	Public Arbitrator
Louise A. Berberian	-	Non-Public Arbitrator

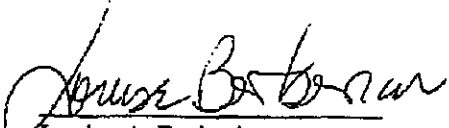
Concurring Arbitrators' Signatures

Harvey C. Flodin
Chair, Public Arbitrator

Signature Date

Fred T. Kallet
Public Arbitrator

Signature Date



Louise A. Berberian
Non-Public Arbitrator

11-11-05
Signature Date

11/11/05
Date of Service