

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Frederick J. O'Meally (Claimant) v. Prudential Securities, Inc. and Wachovia Securities, LLC (Respondents)

Case Number: 05-01678

Hearing Site: New York, New York

Nature of the Dispute: Associated Person vs. Members

REPRESENTATION OF PARTIES

Claimant Frederick J. O'Meally hereinafter referred to as "Claimant": Peter Fleming, Jr., Curtis, Mallet-Prevost, Colt & Mosle LLP, New York, NY.

Respondent Prudential Securities, Inc., hereinafter referred to as "Prudential": Thomas J. Kavalier, Esq., Cahill Gordon & Reindel, LLP, New York, NY.

Respondent Wachovia Securities, LLC, hereinafter referred to as "Wachovia": Andrew J. Dubill, Esq., Kirkpatrick & Lockhart Nicholson Graham LLP, Washington, DC.

CASE INFORMATION

Amended Statement of Claim filed on or about: April 11, 2005.

Claimant signed the Uniform Submission Agreement: October 11, 2004.

Statement of Answer to the Amended Statement of Claim filed by Prudential on or about: August 24, 2005.

Prudential signed the Uniform Submission Agreement: May 4, 2005.

Statement of Answer to the Amended Statement of Claim filed by Wachovia on or about: August 24, 2005.

Counterclaim filed by Wachovia on or about: March 23, 2006.

Wachovia did not submit a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: compensation, wrongful termination, libel/slander on Form U-5.

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

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

In its Counterclaim, Wachovia asserted the following causes of action: breach of contract.

RELIEF REQUESTED

Claimant requested that the panel:

- (1) find the WealthBuilder and MasterShare Plans to be ERISA plans subject to ERISA's standards and in violation of those standards
- (2) find the WealthBuilder and MasterShare Plans to have been sold without being registered and to have been offered without the means of a prospectus, in violation of federal law.
- (3) award the entirety of the balance, approximately \$2,000,000.00 of the MasterShare account due to (a) entitlement to benefits under the MasterShare Plan according to its terms (b) under ERISA and/or (c) due to violations of federal securities laws.
- (4) award the remaining amounts owed, approximately \$1,300,000.00 from his 2003 signing bonus.
- (5) award compensation (including, without limitation, the loss of amounts that could have been earned as a financial advisor at other securities firms) for wrongful termination and defamation in the amount of approximately \$1,500,000.00 and a direction to Wachovia to amend the Form U-5 to state that Claimant was terminated "not for cause".
- (6) attorneys' fees and costs.
- (7) punitive damages in the amount of \$1,000,000.00; and
- (8) such other relief as may be just and appropriate.

Prudential requested that the Amended Statement of Claim be dismissed in its entirety.

Wachovia requested dismissal of the Amended Statement of Claim in its entirety with prejudice, costs, attorneys' fees and related expenses.

In its Counterclaim, Wachovia requested compensatory damages in the amount of \$323,712.00, interest at the legal rate from the date of Claimant's departure from Wachovia, costs, reasonable attorneys' fees and any further relief that the panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about April 11, 2005, Claimant submitted the Amended Statement of Claim which replaced the Statement of Claim. The Amended Statement of Claim was served upon the parties.

Respondent Wachovia Securities, LLC did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

At the hearing, Prudential made a Motion to Dismiss the claims against it, Claimant agreed to the Motion, except for the claim for reimbursement of legal fees sustained by Claimant in appearance before the Securities Exchange Commission. After due deliberation, the Panel agreed to the Motion to Dismiss and denied the claim for reimbursement.

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

1. Respondent Wachovia is liable for and shall pay to Claimant compensatory damages in the amount of \$1,929,919.30 plus interest at a rate of 9% per annum from September 30, 2003 to date of payment of Award.
2. Respondent Wachovia is liable for and shall pay to Claimant compensatory damages in the amount of \$1,292,800.00 plus interest at a rate of 9% per annum from the date of Award to payment.
3. Claimant's claims against Respondent Prudential are dismissed in their entirety.
4. Respondent Wachovia's Counterclaim is denied in its entirety.
5. Any and all relief not specifically addressed herein, including punitive damages, is denied.

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	= \$ 600.00
Counterclaim filing fee	= \$1,000.00

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 person at the time of the events giving rise to the dispute. Accordingly, Prudential Securities, Inc. and Wachovia Securities, LLC are parties.

Member surcharge	= \$ 3,350.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,500.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators that last four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel @ \$1,200.00/session	= \$ 2,400.00
Pre-hearing conferences: October 7, 2005 1 session	
April 27, 2006 1 session	
 Eighteen (18) Hearing sessions with Panel @ \$1,200.00/session	 =\$21,600.00
Hearing Dates: May 1, 2006 2 sessions	
May 2, 2006 2 sessions	
May 11, 2006 2 sessions	
May 12, 2006 2 sessions	
June 15, 2006 2 sessions	
June 16, 2006 2 sessions	
August 8, 2006 2 sessions	
August 9, 2006 2 sessions	
August 10, 2006 2 sessions	
<hr/> Total Forum Fees	<hr/> =\$24,000.00

1. The Panel has assessed \$8,000.00 of the forum fees to Claimant.
2. The Panel has assessed \$8,000.00 of the forum fees to Prudential.
3. The Panel has assessed \$8,000.00 of the forum fees to Wachovia.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 8,000.00
<hr/> Total Fees	<hr/> = \$ 8,600.00
Less payments	= \$ 1,800.00
<hr/> Balance Due NASD Dispute Resolution	<hr/> = \$ 6,800.00
2. Respondent Prudential Securities, Inc. is solely liable for:

Member Fees	= \$ 9,600.00
Forum Fees	= \$ 8,000.00
<hr/> Total Fees	<hr/> = \$17,600.00
Less payments	= \$ 9,600.00
<hr/> Balance Due NASD Dispute Resolution	<hr/> = \$ 8,000.00
3. Respondent Wachovia Securities, LLC is solely liable for:

Counterclaim Filing Fee	= \$ 1,000.00
Member Fees	= \$ 9,600.00
Forum Fees	= \$ 8,000.00
<hr/> Total Fees	<hr/> = \$18,600.00
Less payments	= \$11,725.00
<hr/> Balance Due NASD Dispute Resolution	<hr/> = \$ 6,875.00

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

ARBITRATION PANEL

Thomas R. Farrell, Esq.	-	Public Arbitrator, Presiding Chairperson
Vincent C. Pangia	-	Public Arbitrator
James J. Noone	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Thomas R. Farrell, Esq.
Thomas R. Farrell, Esq.
Public Arbitrator, Presiding Chairperson

9/28/06
Signature Date

Vincent C. Pangia
Public Arbitrator

Signature Date

James J. Noone
Non-Public Arbitrator

Signature Date

September 22, 2006
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

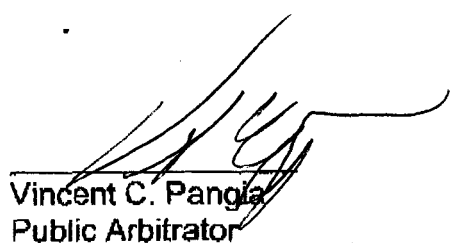
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Vincent C. Pangia	-	Public Arbitrator
James J. Noone	-	Non-Public Arbitrator

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Concurring Arbitrators' Signatures

Thomas R. Farrell, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Vincent C. Pangia
Public Arbitrator

9/19/06

Signature Date

James J. Noone
Non-Public Arbitrator

Signature Date

September 22, 2006

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

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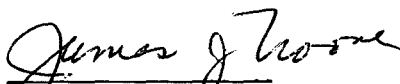
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Thomas R. Farrell, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Vincent C. Pangia
Public Arbitrator

Signature Date



James J. Noone
Non-Public Arbitrator

9/20/06

Signature Date

Date of Service (For NASD Dispute Resolution use only)