

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION

CASE: 05-05792

Antonio Tafurt, Maria Teresa Mejia, Maria Rojas de Tafurt and Hallel International Ltd (successor in interest to Antonio Tafurt), (Claimants) vs. Wachovia Securities, LLC. And Denis Barreto, (Respondents)

ATTORNEYS:

Claimants appeared *pro se*, Aventura, FL and Bogota, Colombia.

For Respondents appeared Prudential Equity Group, LLC's in-house counsel Carole A. McDonald, Esq., New York, NY.

NATURE OF DISPUTE: Customers v. Member and Associated Person

DATE FILED: November 10, 2005

CASE SUMMARY: Claimants alleged that Respondents omitted material facts regarding investments, failure to supervise and negligence. Claimants maintained that due to Respondents' actions, they suffered financial losses. Claimants' claim involved corporate and municipal bonds.

ARBITRATOR'S REPORT: See attached Exhibit A.

Claim Data

Claim: \$21,356.00
Interest: \$.00

Attorney Fees: \$200.00
Filing Fees: \$1,500.00
Other: Unspecified

Award Data

Award: \$16,855.00
Interest: granted at the rate of 8% per annum from 9/4/03 to the date of payment of the award.
Attorney Fees: \$.00
Filing Fees: \$212.50
Other: \$.00

AWARD: The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) Respondent Denis Barreto is solely liable and shall pay to the Claimants \$16,855.00. 2) All requests for attorney fees are denied. 3) Respondent Denis Barreto is solely liable and shall pay to the Claimants interest at the rate of 8% per annum from September 4, 2003 until the date of payment of the award. 4) All other relief requests are denied. 5) NASD Dispute Resolution shall retain the \$425.00 filing fee that the Claimants deposited previously. 6) Respondent Denis Barreto is solely liable and shall pay Claimants \$212.50 as reimbursement of one half of the filing fee.

OTHER FEES: Pursuant to Rule 10333 of the Code, Respondent, Wachovia Securities, LLC., has not paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

Page Two
Award 05-05792

OTHER ISSUES: By letter dated January 13, 2006, Claimants dismissed Wachovia Securities, LLC. as a party to this matter.

Page Three
Award 05-05792

Meah Rothman-Tell, Esq.

-

Sole Public Arbitrator

AFFIRMATION

I, Meah Rothman-Tell, Esq., do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.



Meah Rothman-Tell, Esq.



(Signature Date)

June 13, 2006

Date of Service (For NASD-DR office use only)

Antonio Tafurt, Maria Teresa Mejia and Maria
Rojas de Tafurt and Hallel International Ltd.
(successor in interest to Antonio Tafurt),

Claimants

And

Wachovia Securities, LLC and Denis Barreto,

Respondents

AWARD

The Arbitrator having considered the submissions of the parties finds as follows:

FINDINGS OF FACT

1. That Wachovia Securities, LLC is not the successor group to Prudential Securities, Inc.
2. That Prudential Equity Group, LLC is the successor broker dealer to Prudential Securities, Inc. and is the proper party in interest.
3. The Arbitrator has considered the Court's Opinion in Case No. 04-MD-15863, MDL-1586, In Re Mutual Funds Investment Litigation. All claims presented in this cause arise out of pre-July 1, 2003 conduct. The claimants have failed to distinguish between pre-July 1, 2003 and post-July 1, 2003 conduct.
4. The Answer filed on behalf of Mr. Barreto, the broker, is signed by Carole A. McDonald, Associate Vice President, Corporate Counsel, Prudential Equity Group, LLC.
5. That there are three separate accounts which were the subject matter of this claim:
 - (1) The Hallel International Ltd. Account (HNY-05601): The total losses in this account as a result of the purchase of MultiCanal SA Note Subject to Special Put on 8/29/000 and 5/1/01 were \$16,855.00. Hallel International Ltd. is the successor in interest to Antonio Tafurt and Juan Manuel Tafurt.
 - (2) The Mejia Account (TCZ-882875): The losses due to the purchase of shares of FW Pfd Capital Trust I were \$4,652.92. The losses due to the purchase of shares of PGS Trust I were \$4,156.27. There was a net loss of \$2,429.22 on the \$82,000.00 invested in the Mejia account. The Claimants with regard to this account are Maria Teresa Mjia and Antonio J. Tafurt.
 - (3) The Rojas Account (TCZ-882506): The losses due to the purchase of shares of FW Pfd Capital Trust I were \$4,320.10. The losses due to the purchase of shares of PGS Trust I were \$3,638.25. There was a net loss of \$5,605.64 on the

\$38,500.00 invested in the Rojas account. The Claimants with regard to this account is Maria C. Rojas de Tafurt and Antonio Tafurt.

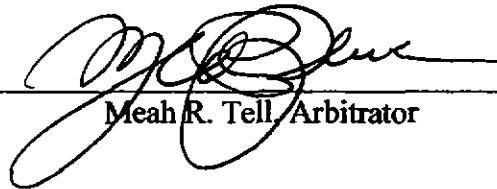
6. That the investments described in Paragraph 5 above were all recommended by the broker, Mr. Barreto prior to July 1, 2003 and all of the actions complained of occurred prior to that time.
7. That Mr. Tafurt was in constant communication with the broker and expressed to the broker his concerns regarding holding the Multicanal bonds commencing in August 2001.
8. That the broker did not advise Mr. Tafurt to liquidate his positions in MultiCanal. To the contrary, the Claimants alleged that based on information the broker was receiving from the "Prudential's advisor" the broker advised them to continue to hold the bonds. The broker did not dispute this allegation but stated that his recommendations were "based on information available to him at the time," his advice was "not unreasonable" and "a financial crisis in Argentina and corporation actions beyond Mr. Barreto's control led to the decline in the value of the issue."

CONCLUSIONS AND AWARD

1. That the Motion to Dismiss the claim against Wachovia Securities, LLC is granted without prejudice to the filing of a claim against The Prudential Equity Group, LLC. by the Claimant(s) or by the broker. The NASD should cancel the invoice issued to Wachovia Securities, LLC in connection with this matter.
2. That the broker has failed to provide evidence to the arbitrator of the "information ...available to him at the time" he advised the Claimants to continue to hold their Multicanal bonds. Absent this evidence, it is impossible for the arbitrator to determine that the broker acted reasonably "based on the information available to him at the time" in advising the Claimants to hold their Multicanal bonds. The evidence points to the broker continuing to assure and advise the Claimant not to liquidate his holdings in the Multicanal bonds based on information he was receiving, in part, from his own brokerage firm's analysts or advisors.
3. That there is no evidence presented that the recommendation to purchase FW Pfd Capital Trust I shares was unreasonable or that the investments were not suitable in light of the investment objectives of the Claimants .
4. That the Claimant Hallel International, Ltd. (successor in interest to Antonio Tafurt) shall recover from the broker, Denis Barreto, the sum of \$16,855.00, with interest thereon at the rate of 8% per annum from September 4, 2003 until the date this sum is paid to the Claimant Hallel International, Ltd. The Claimant shall not be entitled to recover punitive damages.
5. Nothing in this award shall bar any cause of action which Denis Barreto has or may have against The Prudential Equity Group, LLC in connection with this matter.
6. All fees due and owing to the NASD for forum, filing or other administrative

costs shall be divided equally between Denis Barreto, the broker, and Hallel International Ltd.

May 25, 2006



Meah R. Tell, Arbitrator