

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of Claimants

Steven A. Kushner and Rebecca Kushner

vs.

Case Number: 05-06322
Hearing Site: Southfield, Michigan

Names of Respondents

Prudential Equity Group, LLC,
Wachovia Securities, LLC, and
Marvin G. Zucker

NATURE OF THE DISPUTE

Customers vs. Members and Associated Person

REPRESENTATION OF PARTIES

Steven A. Kushner and Rebecca Kushner ("Claimants") were represented by Anthony V. Trogan, Esq., Anthony V. Trogan PLLC, West Bloomfield, Michigan.

Prudential Equity Group, LLC ("Prudential") was represented by Brandon L. Spurlock, Esq., Morgan Lewis & Bockius LLP, Chicago, Illinois.

Wachovia Securities, LLC ("Wachovia") and Marvin G. Zucker ("Zucker") were represented by Todd Ratner, Esq., Wachovia Securities, LLC, Richmond Virginia.

CASE INFORMATION

The Statement of Claim was filed on or about December 12, 2005. The First Amended Statement of Claim was filed on or about January 31, 2006. The Submission Agreement of Claimants was signed on or about December 1, 2005.

The Statement of Answer to Claimants' Amended Statement of Claim was filed jointly by Prudential and Zucker on or about August 18, 2006. The Submission Agreement of Prudential was signed on or about April 13, 2006.

The Statement of Answer was filed jointly by Wachovia and Zucker on or about March 3, 2006. The Statement of Answer to Claimants' Amended Statement of Claim was filed jointly by Wachovia and Zucker on or about April 14, 2006. The Submission Agreement of Wachovia was signed on or about March 2, 2006, by Todd Ratner, Vice President/Counsel. The Submission Agreement of Zucker was signed on or about February 16, 2006.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract, common law fraud, conspiracy, promissory estoppel, negligence, malpractice, breach of fiduciary duty, and breach of Michigan securities laws. The causes of action related to Claimants' allegations that the transactions recommended by Respondents, including investments a series of transactions in Xoma and a short sale in US Treasury strips, were not suitable for Claimants, given their circumstances and objectives. Claimants further alleged that Respondents mislead them by insisting that Respondents' recommendations were suitable for Claimants.

Unless specifically admitted in their Answer, Prudential and Zucker denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: estoppel, waiver, statute of limitations and laches, assumption of the risk, contributory negligence, and failure to state a claim.

Unless specifically admitted in their Answer, Wachovia and Zucker denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim fails to state a claim upon which relief may be granted, Claimants waived the right to pursue a claim by their actions and inactions, and the Claims are barred by the applicable statutes of limitations.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$360,000.00
Exemplary/Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Prudential requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

Wachovia and Zucker requested that the claims asserted against them be denied in their entirety, that they be awarded their costs, attorneys' fees, and any other relief deemed proper, as well as that Respondent Zucker's CRD records be expunged of all references to this matter.

OTHER ISSUES CONSIDERED & DECIDED

After the conclusion of Claimants' case, all Respondents moved for dismissal. The Panel denied the Motion.

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.) Claimants' claims, each and all, are hereby denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3.) Any relief not specifically enumerated, including punitive damages, expungement, and attorneys' fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial Claim filing fee	= \$ 300.00
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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 persons at the time of the events giving rise to the dispute. In this matter, the member firms are Prudential Equity Group, LLC and Wachovia Securities, LLC.

Member surcharge	= \$ 1,750.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

Forum Fees and Assessments

The Panel has assessed forum fees for each hearing 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 lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,125.00	= \$ 1,125.00
Pre-hearing conference: May 15, 2006	1 session
Six (6) Hearing sessions x \$1,125.00	= \$ 6,750.00
Hearing Dates: January 17, 2007	2 sessions
January 18, 2007	2 sessions
January 19, 2007	2 sessions
Total Forum Fees	= \$ 7,875.00

The Panel has assessed \$3,937.50 of the forum fees jointly and severally to Steven A. Kushner and Rebecca Kushner.

The Panel has assessed \$3,937.50 of the forum fees jointly and severally to Prudential Equity Group, LLC, Wachovia Securities, LLC, and Marvin G. Zucker.

FEE SUMMARY

Claimants, Steven A. Kushner and Rebecca Kushner, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 3,937.50
Total Fees	= \$ 4,237.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 2,812.50

Respondent, Prudential Equity Group, LLC, is liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent, Wachovia Securities, LLC, is liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Prudential Equity Group, LLC, Wachovia Securities, LLC, and Marvin G. Zucker, are jointly and severally liable for:

Forum Fees	= \$ 3,937.50
Total Fees	= \$ 3,937.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,937.50

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

ARBITRATION PANEL

Mayra Adela Rodriguez, Esq. – Public Arbitrator, Presiding Chair
Stephen D. Kursman, Esq. - Public Arbitrator
S. Peter Bayekian - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

/s/ Mayra Adela Rodriguez, Esq.
Mayra Adela Rodriguez, Esq.
Public Arbitrator, Presiding Chair

01/29/07
Signature Date

/s/ Stephen D. Kursman, Esq.
Stephen D. Kursman, Esq.
Public Arbitrator

01/26/07
Signature Date

/s/ S. Peter Bayekian
S. Peter Bayekian
Non-Public Arbitrator


01/29/07
Signature Date

01/29/07
Date of Service (For NASD office use only)

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