

**Award  
NASD**

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In the Matter of the Arbitration Between:

Names of the Claimants

William and Eula B. Lewis

Case Number: 00-03587

Names of the Respondents

Lincoln Financial Advisors Corporation

Gregory B. O'Quin

Charles A. Prince

Hearing Site: New Orleans, LA

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**REPRESENTATION OF PARTIES**

For William and Eula B. Lewis, hereinafter collectively referred to as "Claimants": Wayne Milner, Esq., Jackson, MS and Erin S. Christ, Esq., Young, Williams, Henderson & Fuselier, P.A., Jackson, MS.

For Respondent Lincoln Financial Advisors Corporation ("Lincoln"): Robert S. Rooth, Esq., Chaffe, McCall, Phillips, Toler & Sarpy, LLP, New Orleans, LA.

For Respondents Gregory B. O'Quin ("O'Quin") and Charles A. Prince ("Prince"): Michael J. Juneau, Esq., The Juneau Firm, Lafayette, LA.

**CASE INFORMATION**

Statement of Claim filed on or about: August 17, 2000.

Claimants signed the Uniform Submission Agreement: August 15, 2000.

Response of Lincoln Financial Advisors Corporation to the Statement of Claim filed on or about: December 14, 2000.

Statement of Answer filed by Respondents O'Quin and Prince on or about: November 15, 2000.

Respondent Lincoln signed the Uniform Submission Agreement: January 2, 2001.

Respondent O'Quin signed the Uniform Submission Agreement: November 14, 2000.

Respondent Prince signed the Uniform Submission Agreement: November 14, 2000.

Claimants' Motion to Amend Statement of Claim ("Motion to Amend") filed on or about: August 28, 2002.

Lincoln Financial Advisors Corporation's Opposition to Claimants' Motion to Amend Statement of Claim filed on or about: August 29, 2002.

Respondents O'Quin and Prince's Motion to Dismiss or for Sanctions for Claimants' Failure to Comply With Discovery Order ("Motion to Dismiss") filed on or about: April 23, 2002.

**CASE SUMMARY**

Claimants asserted the following causes of action: unauthorized trading; unauthorized use of margin; breach of fiduciary duty; and, unsuitable recommendations. The causes of action relate to the unauthorized use of margin and the sale of an Ameritas annuity and Compaq and Intel stock in Claimants' accounts.

Unless specifically admitted in its Answer, Respondent Lincoln denied the allegations made in the Statement of Claim and asserted various affirmative defenses including: estoppel, waiver, and ratification.

Unless specifically admitted in their Answer, Respondents O'Quin and Prince denied the allegations made in the Statement of Claim and asserted various affirmative defenses including: Respondents did not breach their fiduciary duty; Respondents' recommendations were suitable; and, all trades were authorized.

### **RELIEF REQUESTED**

Claimants requested compensatory damages of \$700,000.00, costs, forum fees, and filing fees.

Respondent Lincoln requested dismissal of the Statement of Claim, costs, attorneys' fees, forum fees, and all other related expenses.

Respondents O'Quin and Prince requested dismissal of the Statement of Claim, costs, attorneys' fees, forum fees, and any and all other related expenses.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The Panel denied Claimants' Motion to Amend during the evidentiary hearing.

On or about May 15, 2002, the Panel issued an order which denied, without prejudice, Respondents O'Quin and Prince's Motion to Dismiss.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

Claimants' Statement of Claim is dismissed, with prejudice. Claimants failed to prove damages in any amount as to any Respondent. Accordingly, the Panel is not required to determine if a breach of duty occurred as to Respondents O'Quin or Lincoln. There was no proof offered whatsoever by Claimants that Respondent Prince violated any duty to Claimants.

Any and all claims for relief not specifically addressed herein are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are

assessed:

**Filing Fees**

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$375.00

**Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$2,000.00

Pre-hearing process fee = \$600.00

Hearing process fee = \$3,500.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

October 8, 9 and 10, 2001, adjournment by Claimants. The adjournment fee was waived by the Panel.

**Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

**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:

Three (3) Pre-hearing sessions with a single arbitrator @ \$450.00 = \$1,350.00

Pre-hearing conferences:	February 7, 2002	1 session
	March 21, 2002	1 session
	August 26, 2002	1 session

Four (4) Pre-hearing sessions with Panel @ \$1,200.00 = \$4,800.00

Pre-hearing conferences:	March 27, 2001	1 session
	October 1, 2001	1 session
	December 3, 2001	1 session
	January 9, 2002	1 session

Four (4) Hearing sessions @ \$1,200.00	= \$4,800.00
Hearing Dates:	
September 4, 2002	2 sessions
September 5, 2002	2 sessions

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Total Forum Fees	= \$10,950.00
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The Panel has assessed \$5,475.00 of the forum fees jointly and severally to Claimants.  
The Panel has assessed \$5,475.00 of the forum fees jointly and severally to Respondents Lincoln and O'Quin.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

**FEE SUMMARY**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$375.00
Forum Fees	= \$5,475.00
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Total Fees	= \$5,850.00
Less payments	= \$1,575.00
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Balance Due NASD	= \$4,275.00

Respondent Lincoln is solely liable for:

Member Fees	= \$6,100.00
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Total Fees	= \$6,100.00
Less payments	= \$6,100.00
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Balance Due NASD	= \$0.00

Respondents Lincoln and O'Quin are jointly and severally liable for:

Forum Fees	= \$5,475.00
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Total Fees	= \$5,475.00
Less payments	= \$0.00
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Balance Due NASD	= \$5,475.00

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

**ARBITRATION PANEL**

Larry M. Roedel, Esq.	-	Public Arbitrator, Presiding Chair
C. Lawrence Orlansky, Esq.	-	Public Arbitrator
Earl S. Eichin, Jr., Esq.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/

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Larry M. Roedel, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

/s/

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C. Lawrence Orlansky, Esq.  
Public Arbitrator

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Signature Date

/s/

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Earl S. Eichin, Jr., Esq.  
Non-Public Arbitrator

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Signature Date

October 17, 2002

Date of Service (For NASD office use only)

NASD Dispute Resolution  
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C. Lawrence Orlansky, Esq.	-	Public Arbitrator
Earl S. Eichin, Jr., Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Larry M. Roedel

Larry M. Roedel, Esq.  
Public Arbitrator, Presiding Chair

10-11-02  
Signature Date

C. Lawrence Orlansky, Esq.  
Public Arbitrator

Signature Date

Earl S. Eichin, Jr., Esq.  
Non-Public Arbitrator

Signature Date

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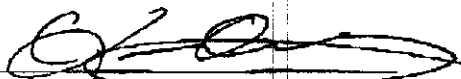
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C. Lawrence Orlansky, Esq.  
Public Arbitrator

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