

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

James Guardino, (Claimant) vs. Prudential Securities, Inc. and Eric L. Diamond, (Respondents)

Case Number: 01-00086

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, James Guardino, hereinafter referred to as "Claimant": Lawrence Mahon, Esq., and Scott F. Guardino, Esq., Mahon, Mahon & Kerins, LLP, Garden City, NY.

Respondents, Prudential Securities, Inc. ("Prudential") and Eric L. Diamond ("Diamond"), hereinafter collectively referred to as "Respondents": John C. Cannistraci, Esq., Assistant General Counsel, Prudential Securities, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: January 4, 2001.

Claimant signed the Uniform Submission Agreement: February 27, 2001.

Statement of Answer and Motion to Dismiss filed by Respondents on or about: June 13, 2001.

Respondent Prudential signed the Uniform Submission Agreement: June 13, 2001.

Respondent Diamond signed the Uniform Submission Agreement: July 1, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; misrepresentation and/or omission of material fact; and unauthorized trading.

Unless specifically admitted in its Answer and Motion to Dismiss, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Respondents are exempt from liability since state law required that they rely upon the Custodian in the handling of Claimant's account; Claimant's claims, if any, should have been brought against the Custodian for failure to properly invest and deliver his property to him; and Claimant has failed to set forth any basis in fact or in law to support his claims.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$60,000.

Respondents requested dismissal of Claimant's claims in their entirety; and assessment of all costs, fees and expenses of these proceedings, including attorneys' fees, against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing, Respondents moved for a directed verdict. The motion was granted.

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are hereby dismissed in their entirety.
2. All other requests for relief are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 225.00
--------------------------	-------------

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, Prudential Securities, Inc. is a party.

Member surcharge	= \$ 1,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 1,500.00

Adjournment Fees

Adjournments requested during these proceedings:

March 4 & 5, 2002, adjournment by Claimant = \$ 750.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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 \$750.00 = \$ 750.00
Pre-hearing conference: November 19, 2001 1 session

One (1) Hearing session x \$750.00 = \$ 750.00
Hearing Date: June 18, 2002 1 session

Total Forum Fees = \$ 1,500.00

The Arbitrator has assessed the entire amount of the forum fees against Claimant.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 225.00
Adjournment Fee	= \$ 750.00
Forum Fees	= \$ 1,500.00
<u>Total Fees</u>	= \$ 2,475.00
<u>Less payments</u>	= \$ 2,000.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 475.00

2. Respondent Prudential be and hereby is solely liable for:

Member Fees	= \$ 3,100.00
<u>Total Fees</u>	= \$ 3,100.00
<u>Less payments</u>	= \$ 3,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

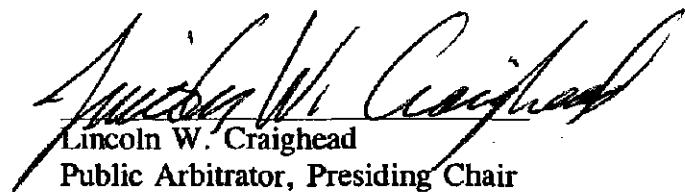
All balances are due and payable to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Lincoln W. Craighead	-	Public Arbitrator, Presiding Chair
James T. Meyer, Esq.	-	Public Arbitrator
John R. Buehler	-	Industry Arbitrator

Concurring Arbitrators' Signatures

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.


Lincoln W. Craighead
Public Arbitrator, Presiding Chair

7/2/02
Signature Date

James T. Meyer, Esq.
Public Arbitrator

Signature Date

John R. Buehler
Industry Arbitrator

Signature Date

July 11, 2002
Date of Service (For NASD office use only)

ARBITRATION PANEL

Lincoln W. Craighead	-	Public Arbitrator, Presiding Chair
James T. Meyer, Esq.	-	Public Arbitrator
John R. Buehler	-	Industry Arbitrator

Concurring Arbitrators' Signatures

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.

Lincoln W. Craighead
Public Arbitrator, Presiding Chair

Signature Date



James T. Meyer, Esq.
Public Arbitrator

7/3/02

Signature Date

John R. Buehler
Industry Arbitrator

Signature Date

July 11, 2002
Date of Service (For NASD office use only)

ARBITRATION PANEL

Lincoln W. Craighead	-	Public Arbitrator, Presiding Chair
James T. Meyer, Esq.	-	Public Arbitrator
John R. Buehler	-	Industry Arbitrator

Concurring Arbitrators' Signatures

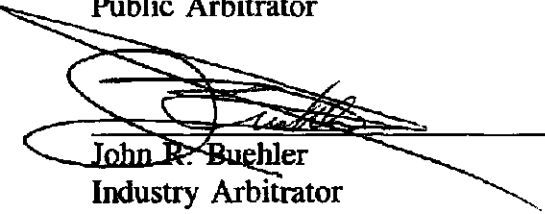
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Lincoln W. Craighead
Public Arbitrator, Presiding Chair

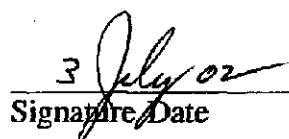
Signature Date

James T. Meyer, Esq.
Public Arbitrator

Signature Date



John R. Buehler
Industry Arbitrator



3 July 02
Signature Date

July 11, 2002

Date of Service (For NASD office use only)