

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Stan G. Adam and Barbara B. Adam, Trustees of the Adam Living Trust U/A dated 8/8/97,  
Claimants v. Prudential Securities, Inc. n/k/a Prudential Equity Group, Inc. and Cary Michael  
Allison, Respondents

Case Number: 03-01528

Hearing Site: San Francisco, California

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Nature of the Dispute: Customers v. Member and Associated Person

**REPRESENTATION OF PARTIES**

For Claimants:

Mitchell S. Ostwald, Esq.  
Law Offices of Mitchell S. Ostwald  
Sacramento, California

For Respondents:

Charles LaChaussee, Esq.  
Prudential Securities, Inc.  
San Francisco, California

**CASE INFORMATION**

Statement of Claim filed: March 3, 2003

Claimants' Joint Uniform Submission Agreement signed: March 3, 2003

Joint Statement of Answer filed by Respondents: May 8, 2003

Respondent Prudential Equity Group, Inc.'s Uniform Submission Agreement signed:  
May 6, 2003

Respondent Cary Michael Allison's Uniform Submission Agreement signed: November 3, 2003

### **CASE SUMMARY**

Claimants alleged breach of fiduciary duty, fraud, constructive fraud pursuant to California Civil Code §1573, failure to supervise, and violation of Federal and State Securities Laws, NASD Rules of Fair Practice and NYSE rules. Claimants' allegations involved transactions in various securities, including telecom and technology stocks.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested \$498,416.00 in compensatory damages, unspecified punitive damages, disgorgement and restitution of all earnings, profits, compensation and benefits, lost opportunity costs, pre- and post-judgment interest, and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety, expungement of all reference to this matter from Respondent Cary Michael Allison's registration record maintained by NASD Central Registration Depository, and costs, including attorney's fees.

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

On March 26, 2003, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On May 21, 2003, Respondents' counsel signed a Waiver Agreement on Respondents' behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On May 19, 2003, Respondents filed an Amended Statement Answer pursuant to the NASD Code of Arbitration Procedure Rule 10328(a).

The Parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Cary Michael Allison is liable to and shall pay Claimants the sum of \$100,000.00 in compensatory damages.
2. Respondent Cary Michael Allison is liable to and shall pay Claimants interest in the amount of 7.0% per annum on \$100,000.00, from date of service of this award (April 5, 2004) until the date compensatory damages are paid in full to Claimants.
3. Respondent Prudential Equity Group, Inc. is liable to and shall pay Claimants the sum of \$12,400.00 as reimbursement for expert witness fees.
4. Respondent Prudential Equity Group, Inc. is liable to and shall pay Claimants the sum of \$300.00 as reimbursement for arbitration filing fees.
5. Except as noted above, the Parties shall bear their respective costs, including attorney's fees.
6. All other relief requested and not expressly granted is denied.

### **FEES**

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

#### **Filing Fees**

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Prudential Equity Group, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,750.00
<b>Total Member Fees</b>	<b>= \$ 5,200.00</b>

#### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: February 24, 2004 1 session	

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference: November 7, 2003 1 session	

Eight (8) Hearing sessions @ \$1,125.00/session	= \$ 9,000.00
Hearings: March 30, 2004 2 sessions	
March 31, 2004 2 sessions	
April 1, 2004 2 sessions	
April 2, 2004 2 sessions	

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<b>Total Forum Fees</b>	<b>= \$10,575.00</b>
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The Panel assessed \$10,575.00 of the forum fees Respondent Prudential Equity Group, Inc.

**Fee Summary**

1. Claimants Stan G. Adam and Barbara B. Adam, Trustees of the Adam Living Trust U/A dated 8/8/97 are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	<u>= \$ (1,425.00)</u>
<b>Refund Due from NASD Dispute Resolution</b>	<b>= \$( 1,125.00)</b>

3. Respondent Prudential Equity Group, Inc. is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	<u>= \$10,575.00</u>
Total Fees	= \$15,775.00
<u>Less payments</u>	<u>= \$( 5,200.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$10,575.00</b>

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

ARBITRATION PANEL

*Sterling N. Frost*

*Thomas C. McNally, III, Esq.*

*Alan P. Fraser*

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*Public Arbitrator, Presiding Chair*

*Public Arbitrator*

*Non-Public Arbitrator*

Concurring Arbitrators' Signatures

Sterling N. Frost  
Chair, Public Arbitrator

Signature Date

*Thomas C. McNally, III*  
Thomas C. McNally, III, Esq.  
Public Arbitrator

4-5-04  
Signature Date

*Alan P. Fraser*  
Alan P. Fraser  
Non-Public Arbitrator

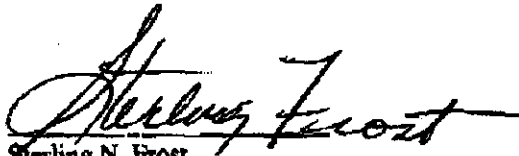
4-7-04  
Signature Date

04/05/04  
Date of Service

ARBITRATION PANEL

<i>Sterling N. Frost</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Thomas C. McNally, III, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Alan P. Fraser</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures



Sterling N. Frost  
Chair, Public Arbitrator

4/05/04  
Signature Date

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Thomas C. McNally, III, Esq.  
Public Arbitrator

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Alan P. Fraser  
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<i>Thomas C. McNally, III, Esq.</i>	-	<i>Public Arbitrator</i>
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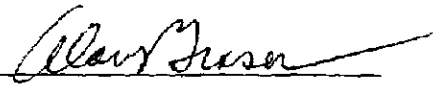
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Chair, Public Arbitrator

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Signature Date

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Thomas C. McNally, III, Esq.  
Public Arbitrator

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Signature Date

  
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Alan P. Fraser  
Non-Public Arbitrator

4-8-04  
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Signature Date

4-8-04  
\_\_\_\_\_  
Date of Service