

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Rose R. Fine and Ellen F. Litt, JT TEN (Claimants) v. Prudential Equity Group, LLC
f/k/a Prudential Securities, Inc. and Arlene Andersen (Respondents)

Case Number: 03-04141

Hearing Site: Boston, Massachusetts

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

REPRESENTATION OF PARTIES

Claimants Rose R. Fine and Ellen F. Litt, JT TEN ("R. Fine and E. Litt") hereinafter collectively referred to as "Claimants": Howard B. D'Amico, Esq., Howard B. D'Amico, P.C., Worcester, MA.

Respondents Prudential Equity Group, LLC f/k/a Prudential Securities, Inc. ("Prudential") and Arlene Andersen ("Andersen") hereinafter collectively referred to as "Respondents": Michael B. Cosentino, Esq., Seegel, Lipshutz & Wilchins, P.C., Wellesley, MA.

CASE INFORMATION

Statement of Claim filed on or about: May 29, 2003.

Opposition to Motion to Dismiss filed on or about: September 16, 2003.

Amended Statement of Claim filed on or about: January 28, 2004.

Claimants signed the Uniform Submission Agreement: May 15, 2003.

Joint Motion to Dismiss for Failure to State a Claim and Response filed by Respondents on or about: August 15, 2003.

Respondent Prudential signed the Uniform Submission Agreement: August 18, 2003.

Respondent Andersen signed the Uniform Submission Agreement: August 21, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: negligent management of the account; breach of fiduciary duties; breach of contract; failure to supervise; misrepresentations/non-disclosures; and suitability. Claimants' claim involved mutual funds.

Unless specifically admitted in their Motion to Dismiss for Failure to State a Claim and Response, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$76,648.48, plus punitive damages, interest, and costs.

Respondents requested that an award be entered in their favor on all claims asserted by the Claimants; attorneys' fees; and that all references to this matter be expunged from the record of Respondent Andersen.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Andersen requested an expungement of all records. In its deliberation and award, the Panel found the claim, allegation, or information against Respondent Andersen to be false and orders expungement as part of the award.

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, and 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. The Panel found that Respondent Prudential's Burlington branch office did not adequately supervise an employee working at home with a medical condition, but this failure does not warrant a referral for disciplinary investigation.
2. Respondent Prudential is liable for and shall pay to Claimants R. Fine and E. Litt compensatory damages in the amount of \$5,000.00.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Arlene Andersen's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Andersen must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
4. Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution 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. Accordingly, Prudential Equity Group, LLC f/k/a Prudential Securities, Inc is a party.

Member surcharge = \$1,100.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$1,700.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. 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 a single arbitrator @ \$450.00 = \$ 450.00

Pre-hearing conference: March 24, 2004 1 session

One (1) Pre-hearing session with Panel @ \$750.00 = \$ 750.00

Pre-hearing conference: December 9, 2003 1 session

Four (4) Hearing sessions @ \$750.00 = \$3,000.00

Hearing Dates: September 13, 2004 2 sessions

September 14, 2004 2 sessions

Total Forum Fees = \$4,200.00

1. The Panel has assessed \$2,100.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$2,100.00 of the forum fees against Respondent Prudential.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$2,100.00
Total Fees	= \$2,325.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$1,350.00

2. Respondent Prudential is solely liable for:

Member Fees	= \$3,550.00
Forum Fees	= \$2,100.00
Total Fees	= \$5,650.00
Less payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$2,100.00

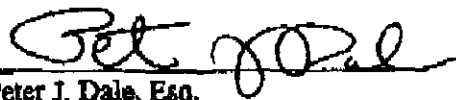
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Peter J. Dale, Esq.	-	Public Arbitrator, Presiding Chairperson
Mark J. Levinson, Esq.	-	Public Arbitrator
Peter Svorinic	-	Non-Public 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 in which is my award.



Peter J. Dale, Esq.
Public Arbitrator, Presiding Chairperson

9-29-04

Signature Date

Mark J. Levinson, Esq.
Public Arbitrator

Signature Date

Peter Svorinic
Non-Public Arbitrator

Signature Date

October 8, 2004

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL


Peter J. Dale, Esq.	-	Public Arbitrator, Presiding Chairperson
Mark J. Levinson, Esq.	-	Public Arbitrator
Peter Svorinic	-	Non-Public 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 is which is my award.

Peter J. Dale, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Mark J. Levinson, Esq.
Public Arbitrator

10/8/04

Signature Date

Peter Svorinic
Non-Public Arbitrator

Signature Date

October 8, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Peter J. Dale, Esq.	-	Public Arbitrator, Presiding Chairperson
Mark J. Levinson, Esq.	-	Public Arbitrator
Peter Svorinic	-	Non-Public 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 in which is my award.

Peter J. Dale, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Mark J. Levinson, Esq.
Public Arbitrator

Signature Date



Peter Svorinic
Non-Public Arbitrator



Signature Date

October 8, 2004
Date of Service (For NASD Dispute Resolution use only)