

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Lincoln Construction, Inc. Profit Sharing Plan and Trust, Kurt N. Schmitt, Trustee
(Claimant) v. Prudential Equity Group, Inc. f/k/a Prudential Securities, Inc. and Ellwood
W. Lewis (Respondents)

Case Number: 03-06194

Hearing Site: Columbus, Ohio

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

REPRESENTATION OF PARTIES

Claimant Lincoln Construction, Inc. Profit Sharing Plan and Trust, Kurt N. Schmitt,
Trustee ("Lincoln") hereinafter referred to as "Claimant": Kevin R. McDermott, Esq.,
Schottenstein, Zox & Dunn, L.P.A., Columbus, OH.

Respondent Prudential Equity Group, Inc. f/k/a Prudential Securities, Inc. ("Prudential")
and Ellwood W. Lewis ("Lewis") hereinafter collectively referred to as "Respondents":
Matthew D. Parrott, Esq., Katten Muchin Zavis Rosenman, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: August 25, 2003.

Claimant signed the Uniform Submission Agreement: August 20, 2003.

Joint Statement of Answer filed by Respondents on or about: November 5, 2003.

Respondent Prudential did not sign the Uniform Submission Agreement.

Respondent Lewis did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: failure to execute; negligence; breach of
fiduciary duty (common law); breach of fiduciary duty (Employees Retirement Income
Security Act of 1974 ("ERISA")); respondeat superior; and control person liability.
Claimant's claim involved shares of common stock.

Unless specifically admitted in their Answer, Respondents denied the allegations made in
the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in excess of \$488,000.00; lost opportunity costs; prejudgment interest; attorneys' fees; punitive damages; and such other relief as is deemed necessary and proper.

Respondents requested that Claimant's claims be dismissed in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and, having answered the claim, and appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

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. Claimant's claims are dismissed in their entirety. The evidence supported the Respondents' position that the Portfolio Management Client Agreement granted Prudential Securities and the Financial Advisor the "authority to invest and re-invest the assets held in the Client's account, without prior consultation. It was clear that the Financial Advisor had total discretion in managing the account. The Claimant had the right to terminate the agreement, but failed to do so during the period in question. Moreover, the record indicated that the Claimant was aware of the activities in the account. However, he failed to take the necessary action to terminate the agreement if he was unsatisfied with how the account was being managed. Further, the Claimant failed to prove that the Financial Advisor was negligent in how he managed the account.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Ellwood W. Lewis'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 Ellwood W. Lewis must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. 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	= \$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 firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Prudential Equity Group, Inc. f/k/a Prudential Securities, Inc. is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Forum Fees and Assessments

The Panel has assessed forum fees for each 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 Panel @ \$1,125.00	= \$1,125.00
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Pre-hearing conference:	February 2, 2004	1 session
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Seven (7) Hearing sessions @ \$1,125.00	= \$7,875.00
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Hearing Dates:	June 7, 2004	2 sessions
	June 8, 2004	3 sessions
	June 9, 2004	2 sessions

Total Forum Fees	= \$9,000.00
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1. The Panel has assessed \$4,500.00 of the forum fees against Claimant.
2. The Panel has assessed \$4,500.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$4,500.00
Total Fees	= \$4,800.00

<u>Less payments</u>	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$3,375.00

2. Respondent Prudential is solely liable for:

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

3. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$4,500.00
Total Fees	= \$4,500.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$4,500.00


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

ARBITRATION PANEL

Floyd Douglas Weatherspoon, Esq.	-	Public Arbitrator, Presiding Chairperson
Randall V. Webber, J.D.	-	Public Arbitrator
John B. Glueckert	-	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.



Floyd Douglas Weatherspoon, Esq.
Public Arbitrator, Presiding Chairperson

6/16/2004
Signature Date

Randall V. Webber, J.D.
Public Arbitrator

Signature Date

John B. Glueckert
Non-Public Arbitrator

Signature Date

JUNE 22, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Floyd Douglas Weatherspoon, Esq.	-	Public Arbitrator, Presiding Chairperson
Randall V. Webber, J.D.	-	Public Arbitrator
John B. Glueckert	-	Non-Public Arbitrator

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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.

Floyd Douglas Weatherspoon, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Randall V. Webber, J.D.
Public Arbitrator

6/17/04

Signature Date

John B. Glueckert
Non-Public Arbitrator

Signature Date

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ARBITRATION PANEL

Floyd Douglas Weatherspoon, Esq.	-	Public Arbitrator, Presiding Chairperson
Randall V. Webber, J.D.	-	Public Arbitrator
John B. Glueckert	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

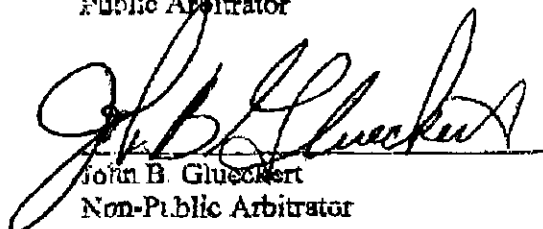
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 1507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument in which is my award.

Floyd Douglas Weatherspoon, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Randall V. Webber, J.D.
Public Arbitrator

Signature Date


John B. Glueckert
Non-Public Arbitrator

6-15-04

Signature Date

JUNE 22, 2004
Date of Service (For NASD Dispute Resolution use only)