

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

David H. Nelson, Trustee Bettye K. Sopher Living Trust,  
UADTD 03-10-00

vs.

05-01708  
Chicago, Illinois

Names of Respondents

Prudential Equity Group, LLC f/k/a Prudential Securities, Inc.  
Kris Stelzner

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**NATURE OF THE DISPUTE**

Customer vs. Member and Associated Person.

**REPRESENTATION OF PARTIES**

David H. Nelson, Trustee Bettye K. Sopher Living Trust, UADTD 03-10-00 ("**Claimant**") was represented by Erwin Cohn, Esq., Cohn & Cohn, Chicago, Illinois.

Prudential Equity Group, LLC f/k/a Prudential Securities, Inc. ("**Prudential**") and Kris Stelzner ("**Stelzner**"), hereinafter referred to as ("**Respondents**"), were represented by Michael B. Cosentino, Esq., Seegel, Lipshutz & Wilchins, P.C., Wellesley, Massachusetts. Prior to December 12, 2005, Respondent Stelzner participated *pro se*.

**CASE INFORMATION**

The Statement of Claim was filed on or about March 31, 2005. Claimant's Response to Respondent Prudential's Motion to Dismiss was filed on or about August 17, 2006. The Submission Agreement of Claimant David H. Nelson, Trustee Bettye K. Sopher Living Trust, UADTD 03-10-00 was signed on March 10, 2005 by David H. Nelson, Trustee.

Statement of Answer was filed by Respondent, Prudential Equity Group, LLC f/k/a Prudential Securities, Inc., on or about June 21, 2005. Respondent Prudential Equity Group, LLC's Motion to Dismiss was filed on or about August 2, 2006. Respondent's Reply Memorandum in Support of its Motion to Dismiss was filed on or about August 23, 2006. The Submission Agreement of Prudential Equity Group, LLC f/k/a Prudential Securities, Inc. was signed on July 25, 2005.

Statement of Answer was filed by Respondent, Kris Stelzner, on or about May 23, 2005. The Submission Agreement of Kris Stelzner was signed on May 18, 2005.

### **CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract and warranties, promissory estoppel; consumer protection & deceptive trade practices; violations of Federal securities laws; and violations of state securities laws. In addition, Claimant; asserted following common law causes of action: negligence; fraud; and misrepresentation.

Claimant also asserted the cause of action of failure to supervise. The causes of action related to the purchase and sale of various securities, including common stock and mutual funds.

Unless specifically admitted in its Answer, Respondent Prudential, denied the allegations made in the Statement of Claim and asserted affirmative defenses, including but not limited to, the following: the Statement of Claim fails to state a claim upon which relief may be granted; waiver; estoppel; failure to mitigate; contributory and/or comparative fault; authorization; and ratification.

Unless specifically admitted in his Answer, Respondent Stelzner, denied the allegations made in the Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested an award as follows:

Actual/Compensatory Damages	\$500,000.00
Exemplary/Punitive Damages	Unspecified
Interest	Unspecified
Other Costs	Unspecified
Other Monetary/Non-Monetary Relief, if any	Unspecified

Respondent Prudential requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

By Order dated August 28, 2006, the Arbitration Panel denied the Motion to Dismiss.

At the close of Claimant's case, Respondents renewed the Motion to Dismiss. The Arbitration Panel took the motion under advisement. The Motion to Dismiss is denied.

At the final hearing, Respondent Stelzner orally requested that any reference to the claims asserted in this matter be expunged from his CRD record.

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 the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Prudential Equity Group, LLC f/k/a Prudential Securities, Inc., and Kris Stelzner, are jointly and severally liable for and shall pay to Claimant, David H. Nelson, Trustee Bettye K. Sopher Living Trust, UADTD 03-10-00, the sum of \$30,000.00 (Thirty Thousand Dollars and No Cents) as compensatory damages;
2. Any and all relief not specifically addressed herein, including punitive damages and expungement, is denied with prejudice; and
3. Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter.

### **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

#### **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 event giving rise to the dispute. In this matter, the member firm is, Prudential Equity Group, LLC f/k/a Prudential Securities, Inc.

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

Hearing process fee	\$	2,750.00
Total Member Fees	\$	5,200.00

### **Forum Fees and Assessments**

The Arbitration Panel assesses forum fees for each hearing session conducted or each decision rendered on a discovery-related motion on the papers. A hearing 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:

One (1) Decision by one (1) arbitrator @ \$200.00 on discovery-related motions on the papers. Respondents submitted one discovery-related motion.	\$200.00
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Two (2) Pre-hearing sessions with Panel	@ \$1,125.00	\$2,250.00
Pre-hearing conferences: September 16, 2005	1 session	
January 5, 2006	1 session	
Four (4) Hearing sessions	@ \$1,125.00	\$4,500.00
Hearing sessions: September 6, 2006	2 sessions	
September 7, 2006	2 sessions	
Total Forum Fees		\$6,950.00

The Arbitration Panel has assessed \$3,475.00 of the forum fees to David H. Nelson, Trustee Bettye K. Sopher Living Trust, UADTD 03-10-00.

The Arbitration Panel has assessed \$3,475.00 of the forum fees jointly and severally to Prudential Equity Group, LLC f/k/a Prudential Securities, Inc. and Kris Stelzner.

### **FEE SUMMARY**

Claimant, David H. Nelson, Trustee Bettye K. Sopher Living Trust, UADTD 03-10-00, is liable for:

Initial Filing Fee	= \$	300.00
Forum Fees	= \$	3,475.00
Total Fees	= \$	3,775.00
Less payments	= \$	-1,425.00
Balance Due NASD Dispute Resolution	= \$	2,350.00

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Respondent, Prudential Equity Group, LLC f/k/a Prudential Securities, Inc., is liable for:

Member Fees	= \$	5,200.00
Total Fees	= \$	5,200.00
Less payments	= \$	-5,200.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, Prudential Equity Group, LLC f/k/a Prudential Securities, Inc. and Kris Steizner, are jointly and severally liable for:

Forum Fees	= \$	3,475.00
Total Fees	= \$	3,475.00
Less payments	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	3,475.00

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

#### ARBITRATION PANEL

Rody P. Biggert, Esq. - Public Arbitrator, Presiding Chair  
 Theodore L. Leeb, Esq. - Public Arbitrator  
 John E. Sundeen - Non-Public Arbitrator

Concurring Arbitrators:

Rody P. Biggert, Esq.  
 Rody P. Biggert, Esq.  
 Public Arbitrator, Presiding Chair

9/22/06  
 Signature Date

Theodore L. Leeb, Esq.  
 Theodore L. Leeb, Esq.  
 Public Arbitrator

Signature Date

John E. Sundeen  
 John E. Sundeen  
 Non-Public Arbitrator

Signature Date

9/22/06  
 Date of Service (For NASD office use only)

NASD Dispute Resolution  
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 Theodore L. Leeb, Esq. - Public Arbitrator  
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Concurring Arbitrators:

Rody P. Biggert, Esq.  
 Public Arbitrator, Presiding Chair

Signature Date

Theodore L. Leeb  
 Theodore L. Leeb, Esq.  
 Public Arbitrator

9/20/06  
 Signature Date

John E. Sundeen  
 Non-Public Arbitrator

Signature Date

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