

STATE OF NEBRASKA
Department of Banking & Finance

In the Matter of)	
Pruco Securities, LLC,)	FINDINGS OF FACT
751 Broad Street,)	
Newark, New Jersey,)	CONCLUSIONS OF LAW
)	
Jeffrey J. Nienhueser,)	AND
15815 West Highway 6)	
Juniata, Nebraska)	CONSENT ORDER
)	
RESPONDENTS.)	

THIS MATTER comes before the Nebraska Department of Banking and Finance (“DEPARTMENT”), by and through its Director, pursuant to its authority under the Securities Act of Nebraska, Neb. Rev. Stat. §§ 8-1101 to 8-1124 (Reissue 1997, Cum. Supp. 2004) (“Act”). Pursuant to Neb. Rev. Stat. § 8-1115 (Reissue 1997), the DEPARTMENT has investigated the acts of Jeffrey J. Nienhueser, 15815 West Highway 6, Juniata, Nebraska; and Pruco Securities, LLC, 751 Broad Street, Newark, New Jersey (collectively, “RESPONDENTS”). As a result of such investigation, and being fully advised and informed in the matter, the Director and RESPONDENTS enter into the following Findings of Fact, Conclusions of Law and Consent Order (“Order”).

FINDINGS OF FACT

1. Pruco Securities, LLC, (“PRUCO”) was at all times relevant to this Order registered as a broker-dealer approved to transact business in Nebraska pursuant to Neb. Rev. Stat. § 8-1103 (Cum. Supp. 2004).
2. At all times relevant to this Order, Jeffrey J. Nienhueser (“NIENHUESER”) has been registered in Nebraska as an agent of PRUCO, pursuant to Neb. Rev. Stat. § 8-1103. NIENHUESER was also registered with NASD to sell mutual funds and variable contracts as an agent of PRUCO. NIENHUESER’s office was, and is, located at his personal residence at 15815 West Highway 6, Juniata, Nebraska.

3. DSW, a Nebraska resident, purchased a variable contract from PRUCO.

NIENHUESER was identified as the agent in charge of the client relationship. Monthly contributions to the variable contract were made by DSW's employer, WES, and were applied to the account according to the instructions from DSW. RESPONDENTS are aware of the identities of DSW and WES, which are being kept confidential in this Order for privacy reasons.

4. On October 22, 2002, NIENHUESER transferred to PRUCO the following checks from WES payable to Prudential Financial, the parent of PRUCO, representing premium payments associated with variable contracts purchased for the account of DSW:

Check Number	Date	Amount
9509	June 10, 2002	\$475.66
9541	July 8, 2002	\$475.66
9572	August 12, 2002	\$475.66
9602	September 9, 2002	\$565.30
9628	October 14, 2002	\$565.30

5. On December 12, 2002, NIENHUESER transferred to PRUCO Check Number 9655 from WES, dated November 11, 2002, in the amount of \$565.30, payable to Prudential Financial, representing premium payments associated with variable contracts purchased for the account of DSW.

6. On February 27, 2003, NIENHUESER transferred to PRUCO the following checks from WES, payable to Prudential Financial, representing premium payments associated with variable contracts purchased for the account of DSW:

Check Number	Date	Amount
9681	December 9, 2002	\$565.30
9705	January 13, 2003	\$565.30
9730	February 10, 2003	\$565.30

7. On March 18, 2003, NIENHUESER transferred to PRUCO Check Number 9754 from WES, dated March 10, 2003, in the amount of \$565.30, payable to Prudential Financial, representing premium payments associated with variable contracts purchased for the account of DSW.

8. On May 19, 2003, NIENHUESER transferred to PRUCO the following checks from WES, payable to Prudential Financial, representing premium payments associated with variable contracts purchased for the account of DSW:

Check Number	Date	Amount
9779	April 14, 2003	\$565.30
9817	May 12, 2003	\$565.30

9. On July 22, 2003, NIENHUESER transferred to PRUCO Check Number 9873 from WES, dated July 4, 2003, in the amount of \$1,130.60, payable to Prudential Financial, representing premium payments associated with variable contracts purchased for the account of DSW.

10. On December 8, 2003, NIENHUESER transferred to PRUCO the following checks from WES, payable to Prudential Financial, representing premium payments associated with variable contracts purchased for the account of DSW:

Check Number	Date	Amount
9942	September 8, 2003	\$618.54
9964	October 13, 2003	\$618.54
9989	November 10, 2003	\$618.54

11. On January 20, 2004, NIENHUESER transferred to PRUCO Check Number 10010 from WES, dated December 8, 2003, in the amount of \$618.54, payable to Prudential Financial, representing premium payments associated with variable contracts purchased for the account of DSW.

12. It was the practice of WES to send the checks for monthly contributions for DSW's account to NIENHUESER the day after the date of the check. According to WES, the checks identified in Paragraphs 6 through 13, inclusive, were handled in accordance with their usual practice. NIENHUESER and PRUCO have represented that NIENHUESER did not always receive the checks in a timely manner.

13. NIENHUESER did not maintain any records regarding the receipt of the checks for monthly contributions for DSW's account.

14. PRUCO, as a registered broker-dealer approved to transact business in Nebraska, is ultimately responsible for the acts of its agents and other associated persons, and, as such, had a duty to maintain reasonable supervision and control over such persons, including NIENHUESER. PRUCO disregarded and did not take action to correct the repeated untimely transmission of payments received by NIENHUESER from WES for the account of DSW.

15. On or about March 22, 2005, the DEPARTMENT sent a proposed Consent Order to NIENHEUSER and PRUCO to resolve this matter through in the imposition of fines and suspensions. This constituted written notice to NIENHEUSER and PRUCO that NIENHUESER was the subject of an investigation by the DEPARTMENT which could result in a finding that NIENHUESER had been involved in a violation of an investment related regulation or statute or which could result in the suspension of the registration of NIENHUESER as an agent in Nebraska.

16. As of August 30, 2005, NIENHUESER's registration statement had not been updated to reflect the DEPARTMENT's investigation. NIENHUESER's registration statement was subsequently updated.

CONCLUSIONS OF LAW

1. The DEPARTMENT has jurisdiction over this matter pursuant to the Act.
2. NASD Rule of Conduct 2820(d) requires members to promptly transmit payment for variable contracts from retail customers. The facts set forth in Findings of Fact Nos. 4 through 11, above, constitute violations of NASD Rule of Conduct 2820(d) by NIENHUESER.
3. 48 NAC 12.003.06 provides that it is a dishonest and unethical business practice for a registrant to fail to comply with any applicable provision of the Conduct Rules of NASD, or any applicable fair practice or ethical standard promulgated by the SEC or by a self-regulatory organization approved by the SEC. The facts set forth in Findings of Fact Nos. 4 through 11, above, constitute dishonest or unethical business practices by NIENHUESER, in violation of 48 NAC 12.003.06.

4. 48 NAC 4.008 provides that a broker-dealer is ultimately responsible for the acts of its agents and other associated persons and must maintain reasonable supervision and control at all times. PRUCO is responsible for the failure of NIENHUESER to transmit payments on behalf of DSW in a timely manner, set forth in Findings of Fact Nos. 4 through 11. PRUCO engaged in a dishonest and unethical business practice, in violation of 48 NAC 12.003.06.

5. Neb. Rev. Stat. § 8-1103(7)(a) (Supp. 2003) provides that every broker-dealer shall maintain such accounts, correspondence, memoranda, papers, books, and other records as the director prescribes by rule and regulation or order, except as provided by section 15 of the Securities Exchange Act of 1934. 48 NAC 4.010 requires broker-dealers registered or required to be registered under the Act to maintain books and records in compliance with SEC Rules 17a-3 (17 C.F.R. 240.17a-3), 17a-4 (17 C.F.R. 240.17a-4), 15c3-2 (17 C.F.R. 240.15c3-2), and 15c3-3 (17 C.F.R. 240.15c3-3). Rule 17a-3(a)(1) (17 C.F.R. 240.17a-3(a)(1)) requires brokers to maintain “Blotters (or other records of original entry) containing an itemized daily record of . . . all receipts and disbursements of cash” Pursuant to Rule 17a-4(a) (17 C.F.R. 240.17a-4(a)), such records shall be preserved for a period of not less than six years, the first two years in an easily accessible place. The facts set forth in Findings of Fact Nos. 4 through 11 and 13, above, constitute failing to preserve for a period of six years, and/or preserve in an accessible place for two years, an itemized daily records of all receipts of cash, in violation of Neb. Rev. Stat. § 8-1103(7)(a).

6. Neb. Rev. Stat. § 8-1103(7)(d) provides that, when any information contained in any document filed with the DEPARTMENT becomes inaccurate or incomplete in any material respect, an agent shall promptly file a correcting amendment. The facts set forth in Findings of Fact Nos. 15 and 16, above, constitute a failure to promptly file a correcting amendment after information in NIENHUESER’s registration statement, filed with the DEPARTMENT, became inaccurate in a material respect, in violation of Neb. Rev. Stat. § 8-1103(7)(d).

7. Neb. Rev. Stat. § 8-1103(9)(a)(ii), (vii), and (xii) (Cum. Supp. 2004) provides, in part, that the Director may by order deny, suspend, or revoke the registration of any registrant, or bar, censure, or impose a fine pursuant to Neb. Rev. Stat. § 8-1108.01(4) on a registrant if the Director

finds that (a) the order is in the public interest and (b) the registrant has, among other things, (i) willfully failed to comply with any provision of the Act or any rule, regulation, or order adopted and promulgated pursuant to the Act, (ii) engaged in dishonest or unethical practices in the securities business, or (iii) if a broker-dealer, failed to adequately supervise his or her agents or employees to assure compliance with the Act.

8. Under the Act's statutory framework, the Director has legal and equitable authority to fashion significant protective remedies.

9. It is in the best interest of RESPONDENTS, and it is in the public's best interest, for RESPONDENTS and the Director to resolve the issues included herein.

CONSENT ORDER

NOW THEREFORE, the parties to this Order agree as follows:

Stipulations: In connection with this Order, RESPONDENTS and the Director stipulate to the following:

- a. The DEPARTMENT has jurisdiction as to all matters herein.
- b. An Order should be entered in this matter, which shall be in lieu of other proceedings by the DEPARTMENT, except as specifically referenced in this Order.

RESPONDENTS further represent as follows:

1. PRUCO has imposed conditions on NIENHUESER's continued employment, which include:

a. NIENHUESER is required to attend all compliance meetings held by his supervisor for a period of one year, but shall attend meetings no less than semi-annually; and

b. NIENHUESER will be subject to semi-annual Private Office – DBA Supervisory Checklist examinations in addition to the annual examination required of all PRUCO private office representatives for a period of one year.

2. RESPONDENTS are aware of their right to a hearing on this Order at which they may be represented by counsel, present evidence, and cross-examine witnesses. The right to such a hearing and any related appeal on all matters covered by this Order is irrevocably waived.

3. RESPONDENTS are acting free from any duress or coercion of any kind or nature.

4. This Order is executed to avoid further proceedings. RESPONDENTS neither admit nor deny that the facts stated herein constitute a violation of the Act.

FURTHER, RESPONDENTS agree to take whatever action is necessary to ensure compliance with all provisions of the Act in the future. If, at any time, the DEPARTMENT determines that RESPONDENTS, either individually or collectively, have committed any other violations of the Act, the DEPARTMENT may take any action available to it under the Act.

IT IS THEREFORE ORDERED as follows:

1. Jeffrey J. Nienhueser shall pay a fine in the amount of Two Thousand Five Hundred Dollars (\$2,500.00). Such payment shall be made by a check or money order payable to the Nebraska Department of Banking and Finance within thirty (30) days from the effective date of this Order.

2. Pruco Securities, LLC, shall pay a fine in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00). Such payment shall be made by a check or money order payable to the Nebraska Department of Banking and Finance within thirty (30) days from the effective date of this Order.

3. Pruco Securities, LLC, shall pay the costs of the investigation conducted by the DEPARTMENT in the amount of Five Thousand Dollars (\$5,000.00). Such payment shall be made by a check or money order payable to the Nebraska Department of Banking and Finance within thirty (30) days from the effective date of this Order.

4. NIENHUESER shall not act in any supervisory, principal, or managerial capacity. NIENHUESER shall be supervised by the Branch Manager of the PRUCO branch office located at 14301 FNB Parkway, Suite 410, Omaha, Nebraska, as indicated on Form BR. PRUCO shall notify the DEPARTMENT of any change in the supervision of NIENHUESER.

4. PRUCO shall provide the DEPARTMENT with records for compliance meetings attended by NIENHUESER showing NIENHUESER's attendance at the meetings and shall provide a copy of all Private Office – DBA Supervisory Checklists relating to NIENHUESER's office conducted by PRUCO.

5. NIENHUESER shall notify PRUCO and the DEPARTMENT of any written or oral complaint regarding his securities activities for a period of two (2) years from the effective date of this Order. Any such notice shall be received by the DEPARTMENT within seventy-two (72) hours of receipt of the complaint. Notice may be provided by a telephone call or electronic mail, followed by a written notice.

In the event that RESPONDENTS, either individually or collectively, fail to comply with the provisions of this Order, the DEPARTMENT may commence such action as it deems necessary and appropriate in the public interest.

The effective date of this Order will be the date of the Director's signature.

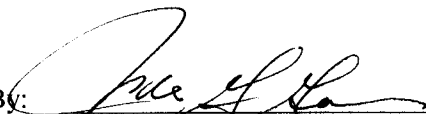
DATED this 23rd day of March, 2006.



Jeffrey J. Nienhueser

DATED this 16th day of March, 2006.

PRUCO SECURITIES, LLC

By: 

Printed Name: Peter G. Condon
Title: President

DATED this 4th day of April, 2006.

STATE OF NEBRASKA
DEPARTMENT OF BANKING AND FINANCE



By: John Munn
John Munn, Director

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