

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

John L. Helm, individually and as Trustee of the
Pay Planning Services, Inc. Pension Plan and Pay
Planning Services, Inc.

90-00877

Name of Respondents

Prudential Securities Inc
Roger G. Bonn
Richard H. Wilson
Vincent J. Holt, Jr.

Heard before:

Charles E. Fletcher, III
Amelia F. Adams
Gerald B. Brenzel

Public Arbitrator
Public Arbitrator
Industry Arbitrator

REPRESENTATION

Claimant was represented by: Schuyler J. Olt of Greenbaum Boone Treitz
Maggiolo & Brown.

Respondents were represented by: Marc S. Dobin, Assistant General Counsel of
Prudential Securities, Inc.

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on March 23, 1990. Claimant John L. Helm, individually and in his capacity of Trustee and President of Pay Planning Services, Inc., ("Claimant") alleged that he was an unsophisticated investor who relied solely on the expertise and guidance of the Respondents. Claimant alleged that Respondents through the actions of Respondent Holt traded Claimants accounts, among other things, in highly speculative option markets. Claimant alleged that this investment strategy was in direct contradiction to his stated investment objective. Claimant alleged that his investment objective was to preserve the corpus of his estate and for investing in income producing investments and not in high risk, volatile securities, let alone options. Claimant alleged that Respondents Wilson, Holt and Bonn mishandled Claimant's accounts and that they placed Claimant in unsuitable investments. Claimant alleged that

Respondent Prudential Securities Inc. is liable for the acts of its agents under the principle of respondeat superior. Claimant alleged that Respondent Holt intentionally, fraudulently, maliciously and deceptively manipulated Claimant's accounts. Claimant alleged that Respondent Holt churned Claimant's accounts. Claimant also alleged that Respondents failed to follow his instructions by selling Waste Management, Inc. stock and his Humana Inc. stock without his authorization. Claimant alleged that he expressly told Respondents to not sell these stocks. Claimant alleged that Respondents Prudential Securities, Inc. and Bonn failed to properly supervise Respondents Holt and Wilson.

In a Statement of Answer filed with the NASD on May 11, 1990, Respondents maintained that Claimant was an experienced investor and that the trading strategy employed met with Claimant's investment objectives as stated on the Option Client Information Form. Respondents maintained that all trades in Claimant's account were authorized, were suitable and met with the Claimant's investment objective. Respondents further maintained that Respondent Holt did not churn Claimant's accounts. Respondents maintained that at no time did Claimant voice his displeasure with the handling of his account and that Claimant even referred some of his friends to the Respondents. Respondents stated that the first time Claimant voiced his displeasure with the way his account was handled was when Claimant filed this claim. Respondents maintained that Claimant's accounts were properly handled at all times and that Respondents Wilson and Holt were properly supervised.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$150,000; an award of interest thereon from November, 1987 at the legal rate of interest as established by the Kentucky Revised Statutes; costs expended in bringing this arbitration, including reasonable attorney's fees; and imposition of appropriate sanctions upon the Respondents in order to deter future misconduct by them.

Respondents requested that Claimant's claims be dismissed and that Respondents be awarded their costs of defending this action.

AWARD

On June 4 and 5, 1991 in Louisville, Kentucky during a hearing lasting four sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant John L. Helm, individually on March 19, 1990 and as Trustee for Pay Planning Services, Inc. Pension Plan on April 13, 1990 and as President of Pay Planning Services Inc. on March 19, 1990 and signed by Kenneth E. Meister on behalf of Respondent Prudential Securities, Inc. on May 10, 1990, by Respondent Roger G. Bonn on May 10, 1990, by Respondent Richard Wilson on May 10, 1990 and by Respondent Vincent J. Holt, Jr. on May 10, 1990.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while

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

1. That Respondents are jointly and severally liable and shall pay to Pay Planning Services, Inc. the sum of THIRTY EIGHT THOUSAND AND 00/100 DOLLARS (\$38,000) plus interest at the Kentucky Statutory rate of 12% from January 31, 1989 until the date the award is paid.
2. That Respondents are jointly and severally liable and shall pay to John L. Helm the sum of FIFTY FOUR THOUSAND AND 00/100 DOLLARS (\$54,000), plus interest at the Kentucky Statutory rate of 12% from January 31, 1989 until the date the award is paid.
3. That no award is rendered in favor of Pay Planning Services, Inc. Pension Plan.
4. That each party shall bear their own costs including attorneys' fees.
5. That no exemplary damages are awarded.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, forum fees are equally assessed against Claimant and Respondents, so that Claimant must pay an additional \$750 in forum fees and Respondents are to pay \$1500 in forum fees.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators Signature


Gerald B. Brenzel

Date of Decision: 6/5/91

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Charles E. Fletcher, III

Date of Decision: 6/22/91