

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Edward J. & Charlotte N. Zubeck

91-00222

Name of Respondents

Prudential Securities, Inc.
Robert C. Hicks

REPRESENTATION

For Claimants: Robert J. Lecky, Esq.

For Respondents: Jonathan C. Thau, Esq. of Wilson, Elser, Moskowitz, Edelman
& Dicker

CASE INFORMATION

Statement of Claim filed: January 22, 1991.

Claimants' Submission Agreement signed: February 1, 1991.

Joint Statement of Answer filed: March 6, 1991.

Respondents did not submit executed Submission Agreements.

HEARING INFORMATION

Hearing Date/Sessions: August 12, 1991, 2 sessions.

Hearing Location: Offices of the National Association of Securities
Dealers, Inc. ("NASD"), in New York City, NY.

CASE SUMMARY

Claimants, Edward J. and Charlotte N. Zubeck ("Claimants"), alleged that the Respondents, Prudential Securities, Inc. and Richard C. Hicks ("Respondents"), failed to sell the Claimants' Sears stock when instructed to do so, and that the Respondents' recommendation that the Claimants purchase the Prudential Bache High Yield Fund (the "Fund") was inappropriate in light of their financial situation and level of sophistication and, moreover, that the Respondents failed to adequately explain the inherent risks of this investment.

Respondents denied the allegations made against them, and contended that the Claimants elected to invest in the Fund in order to maximize income potential, with full knowledge of the risks involved. Further, the Respondents contended that they always acted properly and with the Claimants' specific directions and objectives in mind.

RELIEF REQUESTED

Claimants requested actual damages of approximately \$42,000.00. Respondents requested dismissal of all claims made against them, plus costs.

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. Pursuant to the by-laws of the NASD, the arbitrators determined that the Respondents, Prudential Securities, Inc. and Roger C. Hicks, were required to submit to this arbitration and are, therefore, bound by this Panel's rulings and determinations.
2. All claims against Respondent Roger C. Hicks be and hereby are dismissed in their entirety.
3. Respondent Prudential Securities, Inc. be and hereby is liable and shall pay to the Claimants, Edward J. and Charlotte N. Zubeck, the sum of Seven Thousand Five Hundred Dollars and No Cents (\$7,500.00), inclusive of interest.
4. The parties each shall bear their respective costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

2 sessions x \$400.00 = \$800.00

The NASD shall retain the \$650.00 previously deposited by the Claimants (\$150 of which represents the non-refundable claim filing fee), and Respondent Prudential Securities, Inc. be and hereby is liable and shall pay to the NASD the sum of \$300.00.

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

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Concurring Arbitrators' Signatures

/s/
Robert Seaman, Esq.

/s/
Donald J. Szostack

/s/
William J. Rotholz

Date of Decision: August 26 ,1991.

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