

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Joseph A. Spurchise

91-01014

Name of Respondents

Prudential Securities, Inc.
John W.B. Shamlian

REPRESENTATION

For Claimant: Samuel J. Costa, Esq.

For both Respondents: Christopher P. Trapani, Esq., in-house counsel.

CASE INFORMATION

Statement of Claim filed: April 02, 1991.

Claimant's Submission Agreement signed: February 27, 1991.

Joint Statement of Answer filed by Respondents: July 03, 1991.

Prudential Securities, Inc.'s Submission Agreement signed: July 03, 1991.

John W.B. Shamlian did not execute a Submission Agreement as is required by Section 12 of the National Association of Securities Dealers, Inc. ("NASD") Code of Arbitration Procedure (the "Code").

HEARING INFORMATION

Hearing Dates/Sessions: October 29, 1991/ 2 sessions.

Hearing Location: Albany, NY- Holiday Inn Hotel.

CASE SUMMARY

Claimant, John A. Spurchise ("Spurchise"), alleged that Respondent John W.B. Shamlian ("Shamlian"), an employee of Respondent Prudential Securities, Inc. ("Prudential"), recommended that he invest his pensions monies in the National Bond Fund ("Fund") was unsuitable and a breach of the Respondents' fiduciary duties to Spurchise. Spurchise contended that Shamlian misrepresented the safety of this investment and that the inherent risks were never disclosed.

Prudential and Shamlian denied the allegations and contended that Spurchise wanted an investment that produced a high level of income and that the Fund was suitable in light of Spurchise's investment objectives. The Respondents also contended that Shamlian fully explained all the risks inherent and that Spurchise authorized all purchases with full knowledge of these risks.

RELIEF REQUESTED

Claimant requested actual damages of \$13,265.36, plus interest, costs, attorney's fees and punitive damages of \$50,000.00.

The Respondents requested dismissal of all claims made against them, plus costs and attorney's fees.

AWARD

After considering the pleadings, the testimony, the evidence presented at the hearing and post hearing submissions, 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 Shamlian was required to submit to this arbitration, notwithstanding his failure to submit an executed Submission Agreement.
2. All claims against Respondents Prudential Securities, Inc. and John W.B. Shamlian be and hereby are dismissed in all respects.
3. The Claimant, Joseph A. Spurchase, be and hereby is liable and shall pay to the Respondent Prudential Securities, Inc. the sum of Two Thousand Six Hundred Nineteen Dollars And One Cent (\$2,619.01) to represent attorneys' fees incurred by the Respondents in connection with the arbitration proceedings.
4. All other claims and counterclaims are dismissed in all respects.

FORUM FEES

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

2 sessions x \$500.00 per session = \$1,000.00

All Forum Fees are to be borne by the Claimant. Therefore, the NASD shall retain the \$650.00 previously deposited by the Claimant (\$150.00 of which represents the requisite claim filing fee, and \$500.00 of which shall be applied to the Forum Fees due and owing), and the Claimant shall be liable and pay to the NASD \$500.00 (which represents the balance of Forum Fees due and owing).

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Concurring Arbitrators' Signatures



Edward LaVarnway

Public/Industry

Industry Arbitrator

Date: DATED BY NASD
DECEMBER 6, 1991

STATE OF: New York
COUNTY OF: ~~New York~~ *Albany*

S.S.:

On this *20th* day of *Nov.*, 1991, before me personally appeared Edward LaVarnway known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

Nancy K. Gardener

Notary Public

NANCY K. GARDENER
Notary Public, State of New York
Qualified in Albany County
My Comm. Expires 1-31-92

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Concurring Arbitrators' Signatures

J. Clark Winslow
J. Clark Winslow

Public/Industry

Public Arbitrator

Date: DATED BY NASD
DECEMBER 6, 1901

STATE OF: New York
COUNTY OF: New York
(Albany)

S.S.:

On this 2nd day of December, 1991, before me personally appeared J. Clark Winslow known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.



Notary Public

TERESE M. SEASTRUM
Notary Public, State of New York
Qualified in Albany County
Commission Expires 12/31/93

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Concurring Arbitrators' Signatures

Public/Industry



Patrick J. MacKrell, Chairman

Public Arbitrator

Date:

DATED BY NASD
DECEMBER 6, 1991

STATE OF: New York
COUNTY OF: New York

S.S.:

On this 25th day of November, 1991, before me personally appeared Patrick J. MacKrell known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.



Notary Public

ANNE M. PARENTE
Notary Public, State of New York
Qualified in Albany County
No. 4842067 10/31/93
Commission Expires _____