

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimant:

Panzieri Henderson Inc.

91-01128

Name of Respondents:

Prudential Securities Inc.  
Richard C. Miller  
Steven J. Meneely

---

REPRESENTATION

For Claimant: David W. Morris, Esq., Sole Practitioner.

For Respondents: David T. Garvey, Esq. of Hancock & Estabrook.

CASE INFORMATION

Claimant filed a Statement of Claim on April 5, 1991 and executed a Submission Agreement on an unspecified date in April 1991.

Respondents Prudential Securities, Inc., Steven Meneely ("Meneely"), and Richard Miller ("Miller") filed a joint Statement of Answer dated May 24, 1991. Respondent Prudential Securities executed a Submission Agreement on May 24, 1991. Respondent Miller executed a Submission Agreement on May 23, 1991. Respondent Meneely did not execute a Submission Agreement as required by section 8 of the NASD Code of Arbitration Procedure.

HEARING INFORMATION

Pre-Hearing Conference: None.

Hearing Dates/Sessions:           December 2, 1991 - three sessions  
  December 3, 1991 - two sessions

Total - five sessions

Hearing Location: Albany, New York.

CASE SUMMARY

During the summer of 1986, Mr. Lionel Biagiotti, President of Claimant Panzieri Henderson, Inc., opened two accounts with Respondent Prudential Securities, one of which was funded from Claimant's profit-sharing plan and the other from general funds. Claimant's president further alleged that he sought safety of principal first, and income only secondarily and invested both accounts in a Prudential-Bache High Yield Fund ("Prudential Fund"). Claimant's president alleged that after April 1987, his investments experienced a downturn from which they never recovered, and that he sold both investments in the Prudential Fund in June of 1990. Claimant's president further alleged that the Respondents failed to closely monitor his accounts.

Respondents maintained that Respondent Miller and Meneely each discussed various investment alternatives with Claimant's president and that he ultimately opted to pursue an income-oriented strategy and invested both accounts in a single Prudential Fund which contained low grade bonds. Respondents further maintained that Respondent Miller contacted Claimant's president on a monthly basis to review the account with him. Respondents further maintained that Claimant's president was a highly successful businessman who received the Prospectus, monthly statements, annual and semi-annual reports on the Prudential Fund as well as individual monthly reports from Respondent Miller.

RELIEF REQUESTED

Claimant requested compensatory damages of \$15,215.67 plus interest and costs.

Respondents requested dismissal of the claim and costs to be assessed against the Claimant.

OTHER ISSUES CONSIDERED & DECIDED

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. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

AWARD

After considering the pleadings, the testimony and 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. That the Respondents are jointly and severally liable and shall pay to the Claimant the sum of \$12,000.00 inclusive of interest; and

2. That each side is to bear its own costs, including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, forum fees of \$1600.00 are assessed. This amount was computed as follows:

\$400.00/session x 5 sessions - \$400.00 hearing session  
deposit previously paid by Claimant = \$1600.00


The parties are to bear this amount as follows:

Claimant is assessed the sum of \$800.00 for forum fees.  
Respondent Prudential Securities is assessed the sum of \$800.00 for  
forum fees.

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

The NASD will retain the Claimant's \$120.00 non refundable claim filing fee.

Concurring Arbitrator's Signature:



Andrew N. Carnall, Esq.  
Public Arbitrator/Chairperson

2. That each side is to bear its own costs, including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, forum fees of \$1600.00 are assessed. This amount was computed as follows:

\$400.00/session x 5 sessions - \$400.00 hearing session  
deposit previously paid by Claimant = \$1600.00

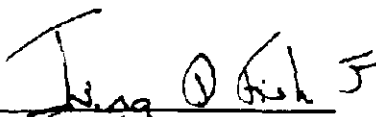
The parties are to bear this amount as follows:

Claimant is assessed the sum of \$800.00 for forum fees.  
Respondent Prudential Securities is assessed the sum of \$800.00 for forum fees.

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

The NASD will retain the Claimant's \$120.00 non refundable claim filing fee.

Concurring Arbitrator's Signature:

  
Irving D. Fish, Jr.  
Industry Arbitrator

2. That each side is to bear its own costs, including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, forum fees of \$1600.00 are assessed. This amount was computed as follows:

\$400.00/session x 5 sessions - \$400.00 hearing session  
deposit previously paid by Claimant = \$1600.00

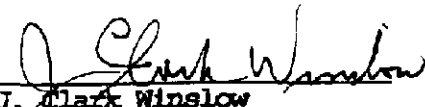
The parties are to bear this amount as follows:

Claimant is assessed the sum of \$800.00 for forum fees.  
Respondent Prudential Securities is assessed the sum of \$800.00 for forum fees.

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

The NASD will retain the Claimant's \$120.00 non refundable claim filing fee.

Concurring Arbitrator's Signature:

  
J. Clark Winslow  
Public Arbitrator

Date of Decision: February 11, 1992

Page Four  
Award No. 91-01128

STATE OF: New York  
COUNTY OF: Albany

S.S.:

On this 3<sup>rd</sup> day of February, 1992, before me personally appeared Andrew Carnell known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Kathy Neidrauer

KATHY NEIDRAUER  
Notary Public, State of New York  
Reg. No. 4953659  
Qualified in Albany County  
Commission Expires July 24, 1993

Page Four  
Award No. 91-01128

STATE OF: ~~New York~~ Massachusetts  
COUNTY OF: ~~New York~~ Berkshire

S.S.:

On this 30<sup>th</sup> day of January, 1992, before me personally appeared Irving D. Fish known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Donna L. Sebestyanski

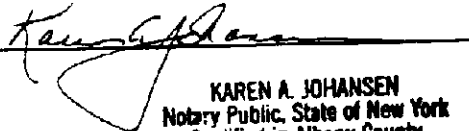
DONNA L. SEBASTYANSKI  
Notary Public  
My Commission Expires  
August 12, 1994

Page Four  
Award No. 91-01128

STATE OF: New York  
COUNTY OF: Albany

S.S.:

On this 31<sup>st</sup> day of January, 1992, before me personally appeared J. Clark Winlow known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

  
KAREN A. JOHANSEN  
Notary Public, State of New York  
Qualified in Albany County  
Commission Expires May 26, 1993

