

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)
)
 Name of Claimant(s))
)
 Aladar Paczler and J. Michael Fitzgerald)
)
)
 Name of Respondent(s))
)
 Prudential Securities Inc.)
)

#91-01492

REPRESENTATION

For Claimants, Aladar Paczler ("Paczler") and J. Michael Fitzgerald ("Fitzgerald"): Robert E. Gordon, Esq. of McGee, Jordan, Shuey, Gordon, Morris & Doner, P.A.

For Respondent, Prudential Securities, Inc., ("Prudential"): Sara Soto, Esq. of Fowler, White, Burnett, Hurley, Banick & Strickroot.

CASE INFORMATION

Statement of Claim filed: May 14, 1991. Claimant, Paczler's, Submission Agreement signed: June 10, 1991. Claimant, Fitzgerald's, Submission Agreement signed: June 26, 1991.

Respondent's Statement of Answer filed: September 20, 1991. Respondent's Submission Agreement and Corporate Acknowledgment signed: September 19, 1991 By Kathy Clock on behalf of the firm.

HEARING INFORMATION

Hearing Date/Sessions: September 16, 1992-Two (2) Sessions.
September 17, 1992-Two (2) Sessions.
September 18, 1992-Two (2) Sessions.

Hearing Location: Ft. Lauderdale, Florida.

CASE SUMMARY

Claimants, the duly appointed Personal Representatives of the Estate of William Matthew Wickham who died on June 21, 1986, alleged that in 1985, when Mr. Wickham was 85 years old, an account was opened for him at Prudential and that despite Mr. Wickham's age, poor health, the adequacy of his investment portfolio and his stated investment objectives of safety of principal and tax-sheltered income, Respondent recommended a radical restructuring of his portfolio and immediately commenced trading excessively in Mr. Wickham's account. Claimant added that, thereafter, other accounts were opened for

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Mr. Wickham including an options account and Revocable trust accounts and that risky long-term investments such as the Limited Partnerships-Prutech Research and Development Limited Partnership II and Prutech Research and Development Limited Partnership III ("Prutech"), were purchased for Mr. Wickham's accounts.

Respondent denied all allegations of wrongdoing and maintained that at the time of purchase, the investments at issue were accurately described by Respondent and that Mr. Wickham was provided with prospectuses for the investments. Respondent further maintained that a Prudential representative personally met with Mr. Wickham and discussed the Prutech limited partnership, that he (Mr. Wickham) personally made the decision to invest in Prutech on his own and in consultation with his financial consultant, that he was fully cognizant of the decisions he made and that Prudential had no reason to believe that he was not. Respondent further denied that the transactions in Mr. Wickham's accounts were excessive or inappropriate.

RELIEF REQUESTED

Claimants requested damages for all losses sustained (over \$500,000.00), punitive damages, treble damages, prejudgment interest, attorney's fees and all other appropriate relief.

Respondent requested dismissal of the Statement of Claim, an award of attorney's fees under Florida Statutes, Sections 517.301 and 57.105. and that the Panel assess the costs of this proceeding against Claimants.

OTHER ISSUES CONSIDERED & DECIDED

At the commencement of the hearing, after careful consideration and deliberation, the Panel denied Respondent's Motion to Dismiss.

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. Respondent, Prudential, is found liable and shall pay to the Claimants, Paczner and Fitzgerald as Co-Personal Representatives of the Estate of William Matthew Wickham, the sum of \$122,900.00 including interest and costs. Simultaneously, Claimants shall transfer all of their rights, title and interest in and to Prutech Research and Development Partnership II, to Respondent.

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2. Claimants' requests for attorney's fees punitive damages and treble damages are hereby denied.
3. Respondent's request for attorney's fees is hereby denied.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the panel has assessed forum fees in the amount of \$6,000.00 (Six Sessions X \$1000.00).

Claimants are hereby assessed forum fees in the amount of \$3000.00 for which the NASD shall retain the \$1,000.00 previously deposited in partial satisfaction thereof and the remaining \$2,000.00 shall be paid to the NASD.

Respondent is hereby assessed forum fees in the amount of \$3,000.00 payable to the NASD.

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

ARBITRATION PANEL

Concurring Arbitrators' Signatures
Name

_____/s/
Randy R. Freedman, Esq.
(Public/Chairman)

_____/s/
Elizabeth L. Clark
(Public/Panelist)

_____/s/
Stephen P. Miller
(Industry/Panelist)

DATE OF AWARD 12/01/92