

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Dorothy Goodstein

and

91-01969

Name of Respondents

Prudential Securities, Inc.
William Bradley

REPRESENTATION OF PARTIES

Claimant was represented by Jeffrey M. Brenman, Esq. of Brenman, Raskin, Friedlob & Tenenbaum, Denver, Colorado.

Respondents were represented by Lisa S. Kahn, Esq. of Davis, Graham & Stubbs, Denver, Colorado.

CASE INFORMATION

The Statement of Claim was filed on or about June 25, 1991. First Amendment to Statement of Claim was filed on or about April 27, 1992. Claimant's Submission Agreement was signed on June 19, 1991.

Statement of Answer was filed by Respondents Prudential-Bache Securities, Inc. (n/k/a Prudential Securities, Inc.) and William Bradley on or about August 28, 1991. Respondent Prudential Securities, Incorporated's Submission Agreement signed on August 14, 1991 by Kevin Frawley. Respondent William Bradley's Submission Agreement signed on August 27, 1991.

HEARING INFORMATION

A pre-hearing conference with the Chairman of the Panel was held on Tuesday, May 26, 1992 lasting one (1) session.

The hearing was held on Wednesday, May 27, 1992 for two (2) sessions, Tuesday, June 30, 1992 for two (2) sessions, Wednesday, July 22, 1992 for four (4) sessions and Monday, July 27, 1992 for four (4) sessions in Denver, Colorado for a total of twelve (12) sessions.

CASE SUMMARY

Claimant alleged that she was an unsophisticated, vulnerable widow that informed William Bradley and Prudential Securities, Inc. ("Prudential") that her investment objective was the development of a high quality, tax-free investment portfolio with a fair rate of return and a minimum amount of risk. Claimant also alleged that William Bradley initiated unauthorized transactions in the following securities: purchase of 2,000 shares of New Brunswick, sale of 20,224 shares of Prudential-Bache's Municipal Board Fund, purchase of a total of 6,000 shares of Unilever, purchase of 2,148 shares of Tyndall Newport Tiger Fund, purchase of a total of 15,000 shares of Current Technology Corp., purchase of a total of 6,000 shares of Archer Communication, Inc. purchase of 5,000 shares of Gem Environmental Management, Inc., and purchase of 10,000 shares of Safety Ject Medical Products Limited.

Claimant stated that the above allegations constituted violations of the NASD Rules of Fair Practice, the Colorado Securities Law, fraudulent concealment, fraudulent misrepresentation, breach of fiduciary duty, and failure to supervise.

Claimant's First Amendment to Statement of Claim withdrew the allegations involving Current Technology Corp. and alleged that the prior allegations constituted violations of Section 10(b) of the Securities Act of 1933 and Rule 10(b)(5) promulgated thereunder in addition to the other violations previously alleged.

Respondents denied the allegations set forth in the Statement of Claim. Respondents stated that the Claimant's account was properly handled in all respects. Respondents further stated that the Claimant is a wealthy sophisticated investor with significant experience with investing in securities. Respondent also stated that the Claimant made all of the investment decisions for her account and controlled the account herself.

Respondents specifically denied making any misrepresentations, concealing any material facts, that their actions constituted the alleged rule and statutory violations and their conduct was in any manner fraudulent, malicious, willful, or wanton. In addition, Respondents asserted the following affirmative defenses among others: the Claimant has failed to state a claim upon which relief may be granted; failure to plead with particularity; the doctrines of estoppel, waiver, acquiescence, and ratification; and; failure to mitigate.

RELIEF REQUESTED

Claimant requested actual damages in an amount to be determined by the panel, exemplary damages in an amount to be determined by the panel, attorney's fees as provided under Sec. 11-51-125 and/or Sec 11-51-601 of the Colorado Securities Act, and interest.

Respondents requested that the Statement of Claim be dismissed and that they be awarded attorney's fees and costs.

OTHER ISSUES CONSIDERED & DECIDED

The panel after considering the request received by the NASD on or about May 13, 1992, of Claimant for a postponement to allow her time to further investigate this matter and to formulate an additional amendment to the statement of claim asserted herein and the response of Respondents, denied the request.

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 original(s) remain on file with the NASD.

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. The claims asserted herein shall be and hereby are dismissed and denied in their entirety.
2. Each party shall bear its' own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$200.00 and shall retain the hearing session deposit in the amount of \$750.00 previously deposited with the NASD by the Claimant. Claimant is assessed and shall pay to the NASD the sum of \$3,900.00 and Respondent Prudential Securities, Inc. is assessed and shall pay to the NASD the sum of \$4,500.00 as forum fees.

Forum fees are calculated at the rate of \$750.00 per hearing session and \$300.00 for each prehearing conference. Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

July 30, 1991

Steven Meyrich
Steven Meyrich, Esq.
Presiding Chair
Public Arbitrator

July 30, 1992

Vincent P. Fitzgerald
Vincent P. Fitzgerald, CPA
Public Arbitrator

July 30, 1992

Dennis Dowd
Dennis Dowd
Industry Arbitrator