

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between :

Terry L. Bragg :

Claimant :

vs. :

Prudential Securities, Inc. :

Respondent :  
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CASE #91-02444  
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 7, 1991, Claimant Terry L. Bragg, who appeared Pro Se, alleged that Respondent Prudential Securities, Inc. credited funds to his customer account in error, and that it took the Respondent 2 1/2 years to correct the problem. The Claimant further alleged that the Respondent believed the Claimant authorized these funds be invested, knowing it wasn't his money; when in fact, he had forgotten the money was there. The Claimant further alleged that the account, when liquidated to correct the improper credit, was left with almost no value.

Respondent, Prudential Securities, Inc. through their in-house counsel, Gerald Kowalski, maintained that the Claimant attempted to benefit from their mistake by intentionally using this credit to invest in various securities and that his approval of investment with these monies can be inferred by his failure to lodge any unauthorization complaint until after the account was corrected.

Respondent Prudential Securities, Inc. filed a counterclaim against Claimant Terry L. Bragg in which they requested interest on the amount credited to the Claimant in error.

Claimant Terry L. Bragg, in reply to the counterclaim, maintained that if he wanted to cheat the Respondent out of these funds, he could have closed the account when the error was made, and that it was their incompetence which caused the error to not be corrected for 2 1/2 years.

RELIEF REQUESTED

Claimant, Terry L. Bragg requested \$4,000.00 in actual damages and that Respondent Prudential Securities, Inc. counterclaim be dismissed.

Respondent Prudential Securities, Inc. requested the claims of the Claimant be dismissed and that Prudential Securities, Inc. be Awarded interest.

AWARD

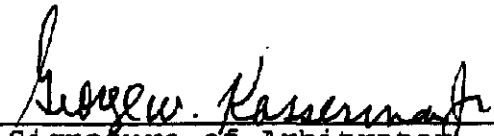
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, George W. Kasserman, Jr., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 1, 1991 and by the Respondent on September 18, 1991.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimant Terry L. Bragg against Prudential Securities, Inc. are dismissed.
2. The counterclaim of Prudential Securities, Inc. against Terry L. Bragg are dismissed.
3. The parties shall bear their respective costs.
4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. The \$575.00 fee filed by the Respondent shall be retained by the NASD, Inc. also.

AFFIRMATION

I, **GEORGE W. KASSERMAN, JR.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
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Signature of Arbitrator

DATE OF DECISION: March 4, 1992