

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Vincent Belmonte and Anita Busciglio

92-00199

Name of Respondents

Prudential Securities Inc
Arthur Dickert

REPRESENTATION

For Claimants: Susan N. Perkins, Esq., a sole practitioner.

For Respondents: Allen Meyer, Esq. and Richard Miller, Esq. of Katten Muchin & Zavis.

CASE INFORMATION

Statement of Claim filed: January 17, 1992.

Claimant, Vincent Belmonte's Submission Agreement signed on: January 2, 1992.

Claimant Anita Busciglio's Submission Agreement signed on January 6, 1992.

Statement of Answer filed by Respondents, Prudential Securities Inc. and Arthur Dickert on:
March 13, 1992.

Respondents, Prudential Securities and Arthur Dickert did not submit executed Submission Agreements.

HEARING INFORMATION

Pre-Hearing Conference: January 15, 1993

Hearing Dates/Sessions: January 19, 1993 - 2 Sessions.
 January 20, 1993 - 2 Sessions.
 January 26, 1993 - 2 Sessions.
 January 27, 1993 - 2 Sessions.
 March 23, 1993 - 2 Sessions.
 March 24, 1993 - 2 Sessions.
 March 25, 1993 - 2 Sessions.

Hearing Location: NASD, Inc. - New York, NY.

CASE SUMMARY

Claimants allege that they opened an account with Norman Dickert ("N. Dickert"), brother of Respondent, Arthur Dickert ("A. Dickert"). Claimants allege that with the help of N. Dickert, they began trading on margin although they did not have a good understanding of the operation of margin. Claimants allege that N. Dickert left Prudential and that A. Dickert took over as account executive for their account. Claimants allege that A. Dickert changed his conduct from that of his brother and failed to keep Claimants apprised of the status of the account.

Claimants allege that A. Dickert negligently removed \$10,000.00 from the account without the Claimants' knowledge or consent. Claimants allege that during the period that the sum remained missing, there were many margin calls in the account, in part as a result of the missing money. Claimants allege that many of the good quality securities they held were sold to meet margin calls. Claimants allege that as a result of A. Dickert's activities, the account suffered both realized and unrealized losses.

Respondents maintain that Claimant, Vincent Belmonte is an experienced investor who initially indicated that his objectives were long-term growth and short-term trading. Respondents maintain that the activities in the account were consistent with those objectives. Respondents maintain that the Claimants ratified every transaction by their silence upon receipt of confirmations and account statements. Respondents maintain that Claimants' claims are barred by the applicable statute of limitations and by Section 15 of the NASD Code of Arbitration Procedure.

RELIEF REQUESTED

Claimants requested: i) the sum of \$275,961.37, representing net losses; ii) the sum of 449,766.00 representing margin interest; iii) the sum of \$33,657.84 or more, representing commissions paid by the Claimants; iv) the sum of \$50,000 for punitive damages; v) interest and attorneys fees.

Respondents requested that the Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

Pursuant to the by-laws of the NASD, the arbitrators determined that Respondents, Prudential Securities, Inc and Arthur Dickert were required to submit to this arbitration, notwithstanding their failure to submit executed submission agreements. Therefore, Prudential Securities, Inc and Arthur Dickert are bound by this panel's rulings and determinations.

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 Securities, Inc. is hereby liable and shall pay to the Claimants the amount of \$12,000.00. This amount shall bear interest at the statutory rate from the date of the award until paid.
2. All Claims against Arthur Dickert are hereby dismissed in their entirety.
3. Each party shall bear their respective costs of this action including attorney's fees except that Respondent, Prudential Securities, Inc is hereby directed to re-imburse to Claimants the amount of \$950.00 previously deposited with the NASD, Inc.

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STATE OF *N.J.* s.s.:
COUNTY OF *Union*

On this *27* day of May, 1993, before me personally appeared Alvin Meentemeier 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.

Viola M Young

NOTARY PUBLIC
My Commission Expires May 27, 1997

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed:

\$200.00	Non-refundable filing fee
\$300.00	Pre-hearing conference
\$10,500.00	Hearing Session Fees (14 sessions x \$750.00)

1. Total forum fees in the amount of \$11,000.00 are hereby assessed against Respondent, Prudential Securities, Inc.
2. As directed above, Prudential shall reimburse to the Claimants the amount of \$950.00 previously deposited with the NASD, Inc.
3. Prudential Securities, Inc. is hereby directed to pay the balance of \$9,550.00 to the NASD, Inc.

Concurring Arbitrator's Signature
Name

Public Arbitrator

Henry H. Balter
Henry H. Balter

Date of Decision: June 1, 1993

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STATE OF *New York* s.s.:
COUNTY OF *New York*

On this *24th* day of May, 1993, before me personally appeared Henry H. Balter 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.



MARIA A. CAMPESE
Notary Public, State of New York
No. 52-4965360
Qualified in Suffolk County *9/*
Commission Expires April 18, 19*94*

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3. Prudential Securities, Inc. is hereby directed to pay the balance of \$9,550.00 to the NASD, Inc.

Concurring Arbitrator's Signature
Name

Public Chairperson


Robert D. Herschmann, Esq.

Date of Decision: June 1, 1993

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STATE OF NY S.S.:
COUNTY OF NY

On this 26 day of May, 1993, before me personally appeared Robert Herschmann 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.

Mark O. Glut

MARK O. GLUT
Notary Public, State of New York
No. 4585193
Qualified in Queens County
Commission Expires April 23, 1993