

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Gregg and Melanie Linn

92-00536

Name of Respondents

Prudential Securities Inc  
Hank Mark Werner

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REPRESENTATION

For Claimant: Martin Jay Siegel, Esq. a sole practitioner.

For Respondents, Prudential Securities, Inc. and Hank Mark Werner: Gerard Kowalski, Esq.  
of Prudential Securities, Inc.

CASE INFORMATION

Statement of Claim filed: February 12, 1992.

Claimant's Submission Agreement signed on: February 12, 1992.

Joint Statement of Answer filed by Respondents, Hank Mark Werner and Prudential Securities,  
Inc. on: April 28, 1992.

Respondent, Prudential Securities, Inc.'s Submission Agreement signed on: April 27, 1992.

Respondent, Hank Mark Werner's Submission Agreement signed on: March 19, 1993.

HEARING INFORMATION

Hearing Date/Sessions: March 19, 1993 - Two Sessions.

Hearing Location: NASD Offices - New York, NY.

### CASE SUMMARY

Claimants allege that Respondent, Hank Mark Werner ("Werner") began a pattern of inappropriate and extensive trading in their account. Claimants allege that the trading consisted of mostly speculative investments which were unsuitable for their account and that the investments were purchased on margin. Claimants allege that Werner executed unauthorized transactions in their account and that Werner generated thousands of dollars in commissions from these transactions. Claimants allege that Respondent, Prudential Securities, Inc. ("Prudential") failed to adequately supervise Werner and that this created a pattern of reckless disregard and wanton misconduct of the Claimants' account.

Respondents maintain that Claimant, Greg Linn's ("G. Linn") only investment objective was "speculation". Respondents maintain that G. Linn signed an option agreement confirming this objective. Respondents maintain that G. Linn indicated that he had experience trading options and that he had previously traded options actively. Respondents maintain that the trading in Claimants' account was suitable given their stated investment objective. Respondents maintain that the Claimants fail to allege any elements of churning in their claim. Respondents maintain that all the trades in the Claimants' account were done with the Claimants' authorization.

### RELIEF REQUESTED

Claimants requested damages in the amount of \$20,700.00 plus punitive damages and attorney's fees.

Respondents requested that the Claim be dismissed and that the costs of this action be assessed against the Claimants.

### 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 the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The Claim is hereby dismissed in its entirety.
2. The Claim for punitive damages is hereby denied.
3. Each party shall bear their respective costs of this action, including attorney's fees.

**FORUM FEES**

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

\$100.00 Non-refundable filing fee

\$800.00 Hearing Session fees (2 sessions x \$400.00)

The NASD shall retain the non-refundable filing fee of \$100.00.

The balance of forum fees in the amount of \$800.00 is hereby assessed equally against the Claimants and Respondents.

1. Accordingly, Claimants are assessed the amount of \$400.00. Claimants are entitled to offset this amount with the \$400.00 hearing session deposit previously paid to the NASD, Inc.
2. Respondents are jointly and severally assessed the amount of \$400.00. Respondents are directed to pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature

Name

  
Allan J. Bardon, Esq.

Public Chairperson

Date of Decision: May 13, 1993

STATE OF New York ss.:

COUNTY OF New York

On this 11<sup>th</sup> day of May 1993, before me personally appeared Allan J. Berdon, Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Sidney H. Weiss

SIDNEY N. WEISS  
Notary Public, State of New York  
No. 02WE4742331  
Qualified in Westchester County  
Certificate on File in N.Y. County  
Commission Expires Sept. 30, 1993

**FORUM FEES**

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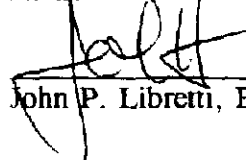
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Concurring Arbitrator's Signature

Name

  
\_\_\_\_\_  
John P. Libretti, Esq.

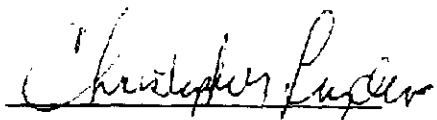
Public Arbitrator

Date of Decision: May 13, 1993

STATE OF NEW JERSEY ss.:

COUNTY OF BERGEN

On this 11<sup>TH</sup> day of MAY 1993, before me personally appeared John P. Libretti, Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



CHRISTOPHER LEYDEN ATTORNEY  
AND NOTARY - STATE OF NEW JERSEY

**FORUM FEES**

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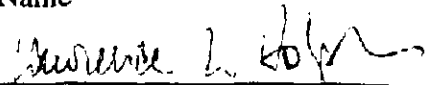
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2. Respondents are jointly and severally assessed the amount of \$400.00. Respondents are directed to pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature  
Name

  
Lawrence L. Halpern

Industry Arbitrator

Date of Decision: May 13, 1993

STATE OF NEW YORK ss.:

COUNTY OF NEW YORK

On this 14th day of May 1993, before me personally appeared Lawrence L. Halpern to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Michelle Grischuk

**MICHELE GRISCHUK**  
Notary Public, State of New York  
No. 31-4966493  
Qualified in New York County  
Commission Expires May 7, 1994