

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between )

Name of Claimant(s) )

Charles N. Zalis )

Case No. 92-00540

Name of Respondent(s) )

Prudential Securities Inc. )

REPRESENTATION

For Claimant, Charles N. Zalis ("Zalis"): pro se.

For Respondent, Prudential Securities, Inc. fka Prudential-Bache Securities, Inc. ("PSI"): Charles T. Richard, Esq. of PSI.

CASE INFORMATION

Statement of Claim filed: February 13, 1992. Claimant's Submission Agreement signed: February 7, 1992.

Respondent's Statement of Answer filed: April 7, 1992. Respondent's Submission Agreement signed: April 6, 1992 by Donald R. Levine on behalf of PSI.

HEARING INFORMATION

On October 30, 1992, in Fort Lauderdale, Florida, a hearing lasting two (2) sessions was conducted.

CASE SUMMARY

Claimant alleged that he had an account with Global American which cleared through PSI; that an unauthorized purchase was made for his account of Mountain Top ("MTOP") which was cancelled after he complained; that when Global became insolvent, Claimant was reassured by a PSI employee; thereafter PSI liquidated Claimant's remaining stocks without notice or authorization, confirming such trades on Global's forms after Global was suspended from all trading by the NASD; and, that such liquidation was a result of a debit balance created by an unauthorized purchase of MTOP.

Respondent denied all allegations of wrongdoing and alleged that Claimant has claimed against the wrong Respondent; Claimant was a client of Global not PSI; PSI's duties were limited by contract to post-execution tasks regarding trades already placed by Global; that PSI performed all of its duties properly; that neither Claimant nor anyone else timely disavowed the MTOP trade; and, when Claimant failed to pay for MTOP, PSI began liquidating Claimant's account as required by federal law.

Respondent alleged the affirmative defenses of failure to state a claim against PSI; PSI complied with all applicable laws and regulations; any damages were caused by others than PSI or its agents; bar by waiver and estoppel; ratification; and, failure to mitigate damages.

Respondent filed a counterclaim and alleged that Claimant failed to pay for the MTOP trade and owes PSI for the debit balance remaining after the liquidation of his account.

#### RELIEF REQUESTED

Claimant requested damages in the amount of \$35,379.50 plus interest of \$6,623.04, cost and fees. Claimant requested dismissal of the counterclaim.

Respondent requested dismissal of Claimant's claim and damages in the amount of \$11,984.50 for the debit balance, plus interest and other relief including attorney's fees.

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

1. Respondent is found not liable and, therefore, all claims against it are hereby dismissed.
2. Claimant/Counter Respondent is found not liable and, therefore, all claims against him are hereby dismissed.
3. Respondent's requests for attorney's fees and expenses are denied.

#### OTHER COSTS

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

#### FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$1,000.00 (two sessions, one x \$400.00 and one x 600.00).

2. Claimant is hereby assessed \$400.00 for which the NASD shall retain the \$400.00 previously deposited in full satisfaction thereof.

3. Respondent is hereby assessed \$600.00 payable to the National Association of Securities Dealers, Inc.

4. Respondent is also assessed the \$500.00 filing fee for its counterclaim, which was previously invoiced but not paid, which shall be paid to the National Association of Securities Dealers, Inc.

5. The NASD shall retain the non-refundable filing fee of \$120.00 paid by the Claimant.

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

Concurring Arbitrators' Signatures

/s/  
Linda A. Singer Stein, Esq.

Public

/s/  
James M. Durne

Public

/s/  
Leon J. Steiner

Industry

Date of Decision: November 6, 1992