

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Henry A. and Susan B. Shevitz

92-01055

Name of Respondent(s)

Prudential Securities Inc
Marvin Zucker

REPRESENTATION

For Claimant: Henry A. Shevitz. pro-se.

For Respondents, Prudential Securities, Inc. and Marvin Zucker: Gerard Kowalski, Esq. of Prudential Securities, Inc.

CASE INFORMATION

Statement of Claim filed: March 23, 1992.

Claimants' Submission Agreement signed on: March 16, 1992.

Joint Statement of Answer filed by Respondent, Prudential Securities, Inc., and Marvin Zucker on: June 16, 1992.

Respondent, Prudential Securities, Inc.'s Submission Agreement signed on: June 11, 1992.

HEARING INFORMATION

Hearing Date/Session: December 1, 1993 - One Session.

Hearing Location: American Arbitration Association - Southfield, MI.

CASE SUMMARY

Claimants allege that upon the advice of their broker, Respondent Marvin Zucker ("Zucker") at Respondent, Prudential Securities, Inc. ("Prudential") they shorted 2000 shares of Hasbro specifying that a stop-loss cover order be placed.

Claimants allege that the stock rose above the price indicated by the stop loss cover order so Claimant Henry Shevitz ("Mr. Shevitz"), called Zucker to verify that they were out of the position. Claimants allege that Zucker verified that he only placed a "mental stop" and he wanted to watch the stock before covering the short. Claimants allege that Zucker told Mr. Shevitz that the stock would be going back down.

Claimants allege that the stock did not go back down and that they lost money as a result of Zucker's failure to execute the stop loss cover order.

Respondents maintain that Claimants had a number of accounts at Prudential and that they were sophisticated investors with a substantial net worth. Respondents maintain that Mr. Shevitz did not specify a stop-loss cover order at the time he placed the short sale. Respondents maintain that a cover order was discussed but ultimately rejected by Mr. Shevitz in favor of a mental stop. Respondents maintain that after the price of the stock rose, Claimants consciously decided to stay short until they finally decided to cover their position.

RELIEF REQUESTED

Claimants requested damages in the amount of \$10,250.00.

Respondents requested that the claim be dismissed and that all costs be assessed against the Claimants.

OTHER ISSUES CONSIDERED & DECIDED

Pursuant to the by-laws of the NASD, Inc., Marvin Zucker was required to submit to this arbitration, notwithstanding his failure to execute a signed Submission Agreement. Therefore, Zucker is bound by this panel's rulings and determinations.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Prudential Securities, Inc. and Marvin Zucker are hereby jointly and severally liable and shall pay the Claimants in the sum of \$4,500.00 (FOUR THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS)

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
\$300.00 Hearing session deposit

Forum fees are hereby assessed jointly and severally against the Respondents. Accordingly, Respondents shall re-imburse to Claimants the sum of \$400.00 Claimants previously paid to the NASD, Inc.

In addition, claimants are entitled to a refund of \$100.00 from the NASD, Inc. for overpayment of forum fees.

Arbitrator's Signature
Name

Public

Carole M. Crosby
Carole M. Crosby, Esq.

Date of Decision: January 20, 1993