

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

O'Donnell, McCord & Leslie Corporation Pension Plan
O'Donnell, McCord & Leslie, P.C.
John J. O'Donnell Keogh
John J. O'Donnell

vs.

Case #
92-01552

Name of Respondents

Prudential Securities Inc
Christopher Kete
Deborah Ann Sappah

REPRESENTATION

For Claimants: Mitchell H. Cobert, Esq. a sole practitioner.

For Respondents, Prudential Securities, Inc. and Christopher Kete: Brian F. McDonough, Esq.
of the firm Shanley and Fisher.

For Respondent, Deborah Ann Sappah: David W. Schmidt, Esq. a sole practitioner.

CASE INFORMATION

Statement of Claim filed: April 29, 1992.

Claimant O'Donnell, McCord & Leslie Corporation Pension Plan Submission Agreement signed
on: April 29, 1992.

Claimant, O'Donnell, McCord & Leslie, P.C.'s Submission Agreement signed on: April 29,
1992.

Claimant, John J. O'Donnell Keogh's Submission Agreement signed on: April 29, 1992.

Claimant, John J. O'Donnell's Submission Agreement signed on: April 29, 1992.

Joint Statement of Answer filed by Respondents, Prudential Securities, Inc., Christopher Kete
and Deborah Ann Sappah on June 23, 1992.

Respondent, Prudential Securities, Inc.'s Submission Agreement signed on: December 30, 1992.
Respondent, Christopher Kete's Submission Agreement signed on: January 15, 1993.
Respondent, Deborah Ann Sappah's Submission Agreement signed on: July 20, 1992.

HEARING INFORMATION

Pre-Hearing Conference: February 4, 1993.
April 14, 1993.

Hearing Dates/Sessions: April 22, 1993 - 2 sessions
April 23, 1993 - 2 sessions
May 20, 1993 - 2 sessions
May 21, 1993 - 2 sessions
July 27, 1993 - 2 sessions
July 29, 1993 - 2 sessions
October 13, 1993 - 2 sessions
October 14, 1993 - 2 sessions
December 21, 1993 - 2 sessions
December 23, 1993 - 2 sessions

Hearing Location: NASD Offices - New York, NY.

CASE SUMMARY

Claimants allege that they utilized the services of Respondent, Deborah Ann Sappah ("Sappah") until the accounts were transferred to Respondent, Christopher Kete ("Kete") both of whom were employed by Respondent, Prudential Securities, Inc. ("Prudential"). Claimants allege that they relied upon Sappah and Kete for investment advice and that over the years Kete and Sappah recommended investments which were unsuitable. Claimants allege that Sappah recommended that Claimant O'Donnell, McCord & Leslie Corporation Pension Plan ("the Pension Plan") invest in the Energy Income Series IV P16 program ("the Energy Program") which was unsuitable and inappropriate for the Pension Plan. Claimants allege that Sappah misrepresented this investment as liquid and income-generating and failed to disclose that the investment involved significant risk.

Claimants allege that Kete, without the knowledge or authorization of the Pension Plan sold existing security investments and made an unauthorized purchase of stock in the Hyperion total Return Fund, Inc. ("Hyperion"). Claimants allege

that Claimant John J. O'Donnell ("O'Donnell") called Kete to cancel the trade but Kete was out of the country and Kete's supervisor refused to cancel the trade. Claimants maintain that the Pension Plan sold the Hyperion at a loss.

Claimants allege that Kete & Sappah recommended several other illiquid, risky investments in limited partnerships which were unsuitable and inappropriate for the Claimants' accounts and involved significant risk.

Respondents maintain that the claims of the Claimants should be severed since the Claimants purchased their securities in separate transactions. Respondents further denied any allegations of wrongdoing in the Statement of Claim.

RELIEF REQUESTED

Claimants requested damages in the amount of \$281,456.00 for the Pension Plan plus interest and penalties; \$180,721.00 for John J. O'Donnell, individually plus interest and penalties; compensatory damages as may be established at trial; punitive damages; interest; counsel fees and costs of this proceeding.

Respondent requested that the Statement of Claim be dismissed in its entirety.

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 Claimant, O'Donnell, McCord & Leslie, P.C., the amount of \$59,000.00. This amount is inclusive of interest. This award shall be paid within 30 days of issuance, or interest shall accrue at the rate of 9% until the date the award is paid.
- 2) All claims against Respondents, Christopher Kete and Deborah Sappah are hereby dismissed in their entirety.
- 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 Fees are assessed:

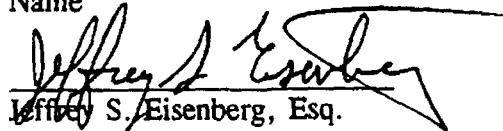
\$200.00	Non-refundable filing fee.
\$300.00	Pre-hearing conference (February 4, 1993).
\$300.00	Pre-hearing conference (April 14, 1993).
\$15,000.00	Hearing Session Fees (15 sessions x \$750.00).

- 1) Total forum fees in the amount of \$15,800.00 are hereby assessed against the Respondent, Prudential Securities, Inc.. Prudential is directed to re-imburse to the Claimant the amount of \$4,250.00 the Claimant previously paid to the NASD, Inc. Prudential is also entitled to offset this amount with the \$3,300.00 Prudential previously paid to the NASD, Inc.. Therefore, Prudential is directed to pay the balance of \$8,250.00 to the NASD, Inc.

ARBITRATION PANEL

Jeffrey S. Eisenberg, Esq.	-	Public Chairperson
Marshall Lipner	-	Public Panelist
Edward Buckley	-	Industry Panelist

Concurring Arbitrator's Signature
Name


Jeffrey S. Eisenberg, Esq.

Date of Decision: February 10, 1994

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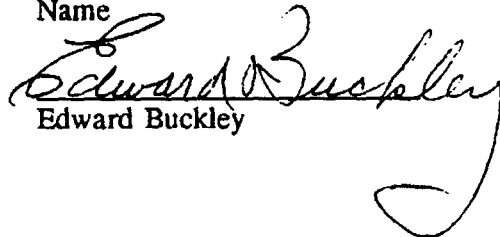
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Marshall Lipner

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