

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

James E. King and Phyllis A. King

92-01849

Name of Respondent(s)

Prudential Securities Inc
Joseph Roediger
Joel Srodes

REPRESENTATION

For Claimants, James E. King and Phyllis A. King ("Kings"):

Richard W. Groner, Esq. of Snyder, Groner, Schieb & Clayton in Sarasota, FL.

For Respondents, Prudential Securities, Inc. ("Prudential"), Joseph Roediger ("Roediger") and Joel Srodes ("Srodes"):

Delmer C. Gowing, III, Esq. of Hertz, Schram & Saretsky, P.C. in West Palm Beach, FL.

CASE INFORMATION

Statement of Claim filed: June 6, 1992.

Claimants' Submission Agreement signed: May 26, 1992

Respondents' Joint Statement of Answer filed: September 11, 1992.

Respondents, Prudential, Roediger and Srodes, did not sign Submission Agreements as required by Sections 12 and 25 of the Code of Arbitration Procedure ("Code"). (See "Other Issues")

HEARING INFORMATION

On October 3, 4 & 5, 1995, in Sarasota, Florida, hearings lasting six (6) sessions were conducted. Hearings were also conducted on March 3 & 4, 1994. However, due to illness, one of the arbitrators had to withdraw. Pursuant to the parties agreement, a new panel was appointed and the hearing started over. The NASD waived the forum fees for the March 3 & 4, 1994 hearing dates.

CASE SUMMARY

Claimant's alleged that the Defendant, Roediger, solicited them to purchase unsuitable options, and placed them in positions of excessive concentration; that the testimony of Roediger conceded that he neither anticipated the possible extent of the losses, nor warned the Claimant's of the risks inherent in the options positions which he solicited them to purchase; that Roediger is accordingly personally responsible for the losses occasioned herein; that Prudential is responsible pursuant to the doctrine of respondeat superior; and, that Srodes was the Branch Office Manager at all times pertinent to the action, and advised Roediger regarding the strategy which Rodeiger solicited Claimant's to pursue.

Respondents denied all allegations of wrongdoing and alleged that Claimants were knowledgeable and suitable for the option strategy employed by the Kings in conjunction with Roediger; that the losses incurred were due to the decline in the value of underlying securities and not caused by the option trading; that Srodes properly supervised the account and all Respondents properly carried out all trade orders by Claimants.

RELIEF REQUESTED

Claimants requested compensatory damages of \$100,000.00, interest, costs, punitive damages and attorney's fees.

Respondents requested that the claims be dismissed in its entirety and that costs be awarded in their favor.

OTHER ISSUES CONSIDERED AND DECIDED

- (1) The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award 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.
- (2) The Panel finds that Respondents were required to sign submission agreements pursuant to sections 12 and 25 of the Code, since the Respondents were either a NASD member or a person associated with a NASD member, at the time the facts giving rise to the controversy occurred.

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) Respondents, Prudential, Roediger and Srodes, are found not liable and, therefore, all claims against them are hereby dismissed.
- (2) Claimants' requests for attorney's fees, costs, expenses, and punitive damages are denied.
- (3) Respondents' request for costs is denied.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

FORUM FEES

- (1) Pursuant to Section 43(c) of the Code, the Panel has assessed forum fees in the amount of \$4,600.00 (six (6) sessions x \$750.00).
- (2) Claimant's are hereby assessed \$2,300.00, for which the NASD shall retain the \$750.00 previously deposited in partial satisfaction thereof leaving a balance due to the NASD of \$1,550.00, payable to the National Association of Securities Dealers, Inc.
- (3) Claimant's shall pay the Administrative Costs previously accrued in the amount of \$158.72, for the arbitrator's expenses.
- (4) Respondent, Prudential, is hereby assessed \$2,300.00, payable to the National Association of Securities Dealers, Inc.

(5) The NASD shall retain the non-refundable filing fee of \$200.00 paid by the Claimants.

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

ARBITRATION PANEL

Arbitrators' Signatures

Name

Public/Industry

 /s/
George S. Coit, Jr. Esq.

Public/Chairperson

 /s/
Anthony J. Vignocchi

Industry

 /s/
Stanley Lampert

Public

Date of Decision: Nov. 15, 1995