

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Ali Shamaei Zadeh

92-03384

Name of Respondents

Prudential Securities Inc
William Michael Roach
Mary Miller

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 7, 1992, Claimant Ali Shamaei Zadeh by and through his counsel James P. McCrocklin, Esq., Sole Practitioner, Louisville, KY, alleged that on or about June 12, 1992 Claimant maintained a brokerage account with Respondent Prudential Securities, Inc., and called Respondent Prudential Securities Inc. whereby the phone was answered by a sales assistant, Respondent Mary Miller, former sales assistant to Frank Sims, Claimant's sales representative when he worked at Respondent Prudential Securities Inc. Claimant further alleged that he requested Respondent Mary Miller give him a quote on OEX calls and the quote was \$3.00, OEX calls expiring June 19, 1993, whereby based upon that quote Claimant instructed Respondent Mary Miller to place a market order to sell 10 contracts of 90 OEX calls. Claimant contended that Respondent Mary Miller responded "O.K.", left the line for a couple of minutes, whereby, Respondent William Michael Roach came on the line and advised Claimant that he traded in Options and Claimant instructed Respondent William Michael Roach to buy at market on the quoted price of $2\frac{1}{4}$ ten OEX puts. Claimant further contended that simultaneous with that order he requested that Respondent William Michael Roach confirm that Respondent Mary Miller had executed his previous order; however, Respondent William Michael Roach informed Claimant that Respondent Mary Miller did not execute the order and the market had moved, and then was informed that Respondent William Michael Roach did not execute the sale of puts. Claimant asserted that at this point after a heated discussion, Respondent William Michael Roach did not wish to handle Claimant's account any longer and was transferred to broker Mike Overton who advised Claimant that the office manager, Roger Bonn, was not in the office that day and no one could tell Claimant whether or not Respondent Prudential Securities Inc. would cover losses

from the unplaced orders. Claimant further asserted that on June 15, 1992 Claimant discussed the failure of Respondent Prudential Securities Inc. to execute the orders with the office manager, Roger Bonn, who told him that his reading of market indicators indicated to him that these positions would return to the quoted price and Claimant would not suffer any damages; however, on June 19, 1992 the calls expired worthless and puts gone to 71, resulting in a loss to Claimant's account in the amount of \$8,000.00.

Respondents Prudential Securities Inc., William Michael Roach and Mary Miller by and through their in-house counsel Steven M. Malina, Esq., maintained that Claimant Ali Shamaei Zadeh's Statement of Claim obfuscates the truth by mischaracterizing the events on and after June 12, 1992. Respondents further maintained that Claimant has misrepresented and completely omitted certain facts harmful to his claim. Respondents contended that Claimant had previously spoken to Respondent Mary Miller and was aware that she was a sales assistant to a financial advisor and thus not qualified to take client orders. Respondents further contended that Respondent Mary Miller was not authorized to write up Claimant's order, and she informed Claimant that he therefore needed to speak to Respondent William Michael Roach, who gave no indication that either he or Respondent Mary Miller had placed a sell order on Claimant's behalf. Respondents asserted that it would not have been possible for Respondent William Michael Roach to place an order at that point in time because Respondent William Michael Roach did not have access to either Claimant's existing position in OEX calls or market price of the calls while in his office on the phone with Claimant, because the computer in his office was not able to be used. Respondents further asserted that Respondent William Michael Roach never did business with Claimant and it is therefore, incredulous for Claimant to assert that Respondents should somehow realized that a sell order was placed.

RELIEF REQUESTED

Claimant Ali Shamaei Zadeh requested \$8,000.00 in actual damages plus interest, together with attorney's fees and costs.

Respondents Prudential Securities Inc., William Michael Roach and Mary Miller requested the claim be dismissed and they be awarded costs, including attorney's fees.

AWARD


Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Phyllis E. Florman, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on November 12, 1992, by the Respondents on January 13, 1993.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimant Ali Shamaei Zadeh against Respondents Prudential Securities Inc., William Michael Roach and Mary Miller are dismissed.
2. The parties shall bear their respective costs, including attorney's fees.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Ali Shamaei Zadeh shall be retained by the NASD.

AFFIRMATION

I, Phyllis E. Florman, Esq., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

Date of Decision: May 10, 1993

NASD DATE OF DECISION: June 1, 1993