

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

George Popper, Executor of the Estate of Marie Singer, Deceased

92-03897

Name of Respondents

Prudential Securities Inc
Anthony A. Noble

REPRESENTATION

For Claimant George Popper, Executor of the Estate of Marie Singer, Deceased:
Anthony J. Ferrara, Esq., of Polstein & Ferrara.

For Respondents Prudential Securities Inc. ("Prudential") and Anthony A. Noble
("Noble"): Laura A. Brevetti, Esq., a sole practitioner.

CASE INFORMATION

Statement of Claim filed: November 17, 1992.

Reply to Counterclaim filed: March 9, 1993.

Claimant's Submission Agreement signed on: November 10, 1992.

Joint Statement of Answer and Counterclaim filed by Respondents on: February
22, 1993.

Respondent Prudential's Submission Agreement: February 19, 1993.

Respondent Noble's Submission Agreement signed on: December 16, 1992.

HEARING INFORMATION

Pre-Hearing Conference:

October 1, 1993/1 session/1 arbitrator

Hearing Dates/Sessions:

November 11, 1993/2 sessions/3 arbitrators

November 12, 1993/2 sessions/3 arbitrators

Hearing Location:

NASD/New York, New York

CASE SUMMARY

Claimant alleged that Marie Singer ("Singer") died in 1991 and that he was named as executor of her will. Claimant alleged he retained Jarret Glantz, Esq. ("Glantz") to probate the will and settle the estate. Claimant alleged Glantz stated he would arrange with Noble, a broker-friend, to open an account at Prudential, whereby Noble would accommodate Glantz by opening an account and quickly liquidate Singer's securities for the highest market price. Claimant alleged that Glantz convinced him to do this by assuring him that Noble would sell the stocks without an Estate Tax waiver.

Claimant alleged Prudential's internal rules and regulations were violated when the account was opened in the name of a dead person without designating it as an "Estate of" account and that this led to Glantz depositing checks into an account at the Bank of New York in the name of "Marie Singer" which Glantz had opened without Claimant's knowledge. Claimant alleged that if Prudential had supervised Noble properly Glantz could not have succeeded in "bilking" the Estate.

Claimant alleged that Glantz opened the Prudential account by giving Prudential a phony power of attorney, purportedly signed by "Marie Singer". Claimant alleged that Prudential violated its own rules in securing this form as no copy could have been retained by Marie Singer, as she was deceased and Claimant never received a copy of the purported power of attorney. Claimant alleged that the "New Account Form" was a fabrication; that Prudential did not send a copy of this completed form to the address of record on the account (Claimant's home address); that Prudential did not send a Cash Account Disclosure Statement to the address of record; that Prudential did not check the listed bank reference; that Noble did not indicate the source of the financial information set forth in the form; and that Noble did not try to introduce himself to Marie Singer. Claimant alleged that the New Account form had a designation "Account Description (please check)" with provision for the broker to check that it is an "Estate" account and that the standard transmittal letter asked the new client to verify that the information contained on the form was correct and if not, to send a corrected form back to the firm. Claimant alleged that Noble's manager was supposed to send that letter to him and did not. Claimant alleged that had Noble and his manager followed Prudential's Manual they would have discovered Singer was deceased and would have obtained from him a "Fiduciary Certification of Investment Powers Form."

Respondents alleged that in or about September 1991, with Claimant's knowing

consent, and for the purpose of circumventing New York Estate Tax and Probate Law, Claimant followed Glantz' advice and provided Glantz, his agent, with the "Marie Singer" stock certificates for the express purpose of having Glantz liquidate the securities through a Prudential representative. Respondents alleged that in order to effectuate the illegal sale of Singer's securities in circumvention of the probate process, Glantz presented to Noble a power of attorney, and all stock certificates and stock powers that, unbeknownst to Noble, Glantz had forged, or caused to be forged, with the purported signature of "Marie Singer", who had in fact died in March 1991. Respondents alleged that Claimant was one of the beneficiaries of Singer's Last Will and Testament, and thus personally stood to gain from the immediate sale of the stocks at a potentially higher market value.

Respondents alleged that Glantz had prior relationships with Prudential and that Noble and another Prudential representative had worked with Glantz without incident; that Prudential had no prior notice of Glantz forging documents or exceeding his authority with these other accounts and, therefore, had no reason to suspect that the Singer account would be different. Respondents alleged that Noble did not violate any of Prudential's internal rules and regulations as he did not know Singer was deceased; that he completed the new account form based on Glantz' information and had no reason to know the information was incorrect or that the power of attorney and stock authorizations were forged.

Respondents alleged that Claimant was on notice that the account was in the name of Marie Singer and not the Estate in that Glantz gave Noble information to complete the new account form, which included the name Marie Singer c/o George Popper and Claimant's address. Respondents alleged the confirmations and monthly statements, which Claimant admitted he received, showed the account as not in the Estate's name and that Claimant never notified Noble or other Prudential representative that the account designation was improper.

Respondents alleged that pursuant to Glantz' request, checks for the sale of Singer's securities were personally picked up by Glantz, acting as Claimant's agent. Respondents alleged that confirmations and monthly statements reflecting the sale of the securities and issuance of the checks was sent to Claimant. Respondents alleged that Claimant made no inquiry or complaint to Noble or any other representative of Prudential regarding these sales.

Respondents alleged that in September 1991, Glantz opened, or caused to be opened two bank accounts at the Bank of New York, one in the name of "Marie Singer": and the other in the name of the "Estate of Marie Singer". Respondents alleged Glantz forged or caused to be forged a bank account application and

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signature cards in the name of Marie Singer, and forged or caused to be forged, Marie Singer's purported endorsements of the Prudential checks and deposited them into the "Marie Singer" account and later withdrew the sum and deposited the proceeds into his own special account. Respondents alleged that it was not until several months after the final trades, that Claimant and/or his counsel first contacted Prudential concerning the Singer account.

Respondents asserted that in February 1993, Glantz pleaded guilty to various criminal charges and that he stole in excess of \$10 million dollars from various clients and estates.

Respondents counterclaimed against Claimant for fraud alleging that with his knowing consent and at his behest, and for the purpose of circumventing New York Estate Tax and Probate Laws, Claimant agreed to have Glantz liquidate the stocks through a Prudential representative; that Claimant and Glantz conspired to provide Prudential with inaccurate and false information upon which Prudential relied to open that account; that as Glantz was his agent, Claimant was responsible for, and bound by Glantz' actions; that Prudential relied on Glantz' apparent authority to act on behalf of Singer; and as a result of Claimant's negligent supervision of his agent, Glantz subsequently converted the funds for his own use.

Respondents alleged that Claimant has sued Bankers Trust Company, the Bank of New York and Glantz and that Prudential was served with a third-party complaint had must defend against said suit as well. Finally, Respondents denied generally the allegations contained in the Statement of Claim and specifically denied any misconduct whatsoever in connection with the management of Claimant's account.

Claimant replied to Respondents' Counterclaim by alleging that he did not defraud Prudential and that because Respondents have not denied the essential allegations of the pleadings the panel should grant a full award to Claimant.

RELIEF REQUESTED

Claimant requested: actual damages in the amount of \$434,603.68, plus interest at the rate of nine (9%) percent per annum from September 19, 1991; session fees; costs and disbursements.

Respondents requested: the Statement of Claim be dismissed in its entirety; attorneys' fees; costs and disbursements. On their Counterclaim, Respondents

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requested an award over and against Claimant be rendered for \$434,603.68.

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 and post hearing submission of Respondent, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are hereby liable, jointly and severally, and shall pay to Claimant the sum of \$435,550.68;
2. Respondents' Counterclaims against Claimant are denied;
3. All other claims are denied;
4. Each party shall bear its own expenses, including attorneys' fees. Respondents are hereby liable, jointly and severally, and shall pay to Claimant the sum of \$750.00. Said amount to reimburse to Claimant the hearing session deposit previously deposited with the NASD.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$200.00 and \$500.00 non-refundable filing fees previously paid by Claimant and Respondents, respectively, and the following Forum Fees are assessed.

1 pre-hearing conference session X \$300.00 = net \$300.00 due.
4 sessions X \$750.00 = net \$3,000.00 due.

Forum fees Assessed Against:

1. Respondents are hereby liable, jointly and severally, in the amount of \$3,300.00; however, Respondents shall reimburse Claimant as noted


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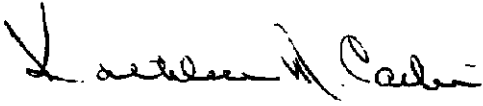
above and the NASD shall retain Respondents' \$750.00 hearing session deposit.
Therefore, the amount due and owing to the NASD equals \$1,800.00.

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

Arbitrator Signature


Bernard G. Pressner/Public Arbitrator


Gary J. Gelfand
Chairman of the Panel
December 1993


LAWRENCE A. CARLIN
NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
NATIONAL OFFICE
100 WALL STREET, SUITE 1000
NEW YORK, NY 10038
OCTOBER 31, 1998

Date of Decision: December 10, 1993

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Therefore, the amount due and owing to the NASD equals \$1,800.00.

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

Arbitrator Signature



Raymond L. George, Jr./Industry Arbitrator

Date of Decision: December 10, 1993

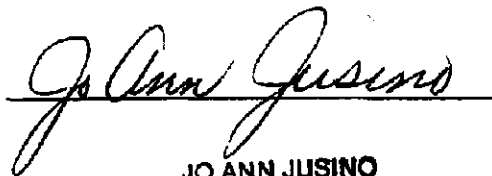
STATE OF

N.Y.

COUNTY OF

QUEENS

On this *30* day of *Nov*, 1993, before me personally appeared Raymond L. George, Jr. known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he/she executed the same.



JO ANN JUSINO
NOTARY PUBLIC, State of New York
No. 30-4518513
Qualified in Nassau County
Commission Expires April 30, 19*94*

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

Arbitrator Signature



David I. Gilchrist/Public Arbitrator

Date of Decision: December 10, 1993

STATE OF *New York*
COUNTY OF *Sullivan*

On this *1st* day of *Dec*, 1993, before me personally appeared David I. Gilchrist known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he/she executed the same.

Joanne A. McCulley

JOANNE A. MCCULLEY
Notary Public, State of New York
Qualified in Sullivan County

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