

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

William M. Howard

93-00232

Name of Respondents

Prudential Securities Inc
F.N. Wolf & Co., Inc.

REPRESENTATION

For Claimant William M. Howard ("Claimant"): Roger Allen Eddleman, Attorney at Law.

For Respondents Prudential Securities, Inc. ("PSI") and F.N. Wolf & Co., Inc. ("F. N. Wolf"): James C. Cosby, Esq. of the law firm of Maloney, Yeatts & Barr.

CASE INFORMATION

Statement of Claim filed: January 21, 1993

Claimant's Submission Agreement signed on: January 15, 1993

Statement of Answer filed by F.N. Wolf on: March 22, 1993

F.N. Wolf's Submission Agreement signed on: March 22, 1993

Motion to Dismiss and Answer filed by PSI on March 22, 1993

PSI's Submission Agreement signed on: March 22, 1993

HEARING INFORMATION

Hearing Date/Sessions: January 7, 1994 - 2 sessions

Hearing Location: NASD Executive Offices, Washington, D.C.

CASE SUMMARY

Claimant alleged that F.N. Wolf made material false statements to induce Claimant

to invest with it. Claimant alleged that F.N. Wolf (also referred to as "Respondent") sent Claimant Respondent's track record which was false, misleading and failed to mention material information and/or negligently stated information upon which Respondent knew or should have known that Claimant would rely on. Claimant alleged that Respondent made express promises and representations to induce Claimant to purchase Twin Star. Claimant alleged that Respondent told him that he did not need to place a stop loss order on this investment as this investment would be closely watched. Claimant alleged that when Twin Star began to decline in value Respondent failed to contact him. Claimant alleged that Respondent knew Twin Star was purchased with money intended for his son's college fund. Claimant alleged that Respondent failed to disclose the risks attendant to the Twin Star purchase and that Twin Star was unsuitable for Claimant who had informed Respondent that he wanted to invest this money conservatively. Claimant alleged that Respondent recommended the purchase of Twin Star stock selling at \$10.50 per share and continually recommended the purchase of Twin Star, even during the time when it dropped to less than \$3.00 per share. Claimant alleged that Respondent failed to disclose that it was a market maker in Twin Star, nor informed Claimant that it may have a conflict of interest in recommending purchases of Twin Star. In addition to the above allegation asserted by Claimant against F.N. Wolf, Claimant alleged fraud, negligence, breach of fiduciary duty, breach of express warranty and breach of contract. Claimant alleged negligence and breach of contract against PSI.

Respondents categorically denied all allegations of wrongdoing. PSI maintained that it had no contacts with Claimant that would warrant PSI being made a party to this action. PSI maintained that Claimant has not alleged an action against it upon which relief can be granted. Therefore, PSI requested that it be dismissed as a party from this action.

F.N. Wolf maintained that Claimant was fully informed about the risks associated with his purchase of Twin Star. Moreover, Claimant was an experienced investor who was seeking growth stocks and declined investing in more conservative investments. Respondent maintained that all investments made by Claimant were suitable. Respondent maintained that Claimant's account was properly handled at all times and that it was Claimant's decision to hold Twin Star. Respondent denied that any false representations were made to Claimant. Respondent denied that any material information was withheld from Claimant and that Claimant was provided with more investment information than the typical investor. Respondent maintained that although Claimant now maintains that his investment funds were for his son's education, it was not until much later did Claimant advise Respondent of this. Respondents maintained that Claimant's claim is time barred. Respondent maintained that no private right of action exists for an alleged breach of the

NASD and NYSE Rules of Fair Practice. Respondent maintained that any claim for fraud is time barred as a matter of law. Respondent maintained that no fiduciary relationship existed and that no express warranty can be established. Respondent maintained that no contract exists and any claim would be time-barred. Respondent maintained that no claim of negligence can be recognized under the facts presented by Claimant.

RELIEF REQUESTED

Claimant requested: compensatory damages in the amount of \$61,000, interest, special damages and costs of this arbitration.

PSI requested that it be dismissed as a party.

F.N. Wolf requested that Claimant's claim be dismissed in its entirety.

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.

That prior to the conclusion of the hearing that Claimant withdrew all claims asserted against PSI. In addition all claims against F.N. Wolf were withdrawn, except all claims and allegations regarding Claimant's investment in Twin Star.

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. That Respondent F.N. Wolf is liable to the Claimant and shall pay to the Claimant the sum of \$7,500; this amount is inclusive of interest.
2. That Respondent PSI's motion to dismiss is moot since all claims against it were withdrawn by the Claimant.
3. That all other claims asserted by the parties are denied.
4. That the parties shall bear their respective costs, except as specifically

provided for herein.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed.

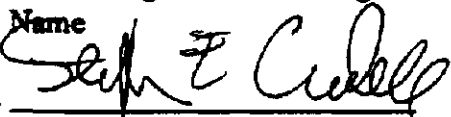
2 sessions X \$500 = \$1,000

Forum fees Assessed Against: That the forum fees shall be borne equally by the Claimant and Respondent F.N. Wolf so that F.N. Wolf shall pay \$500 as forum fees. Claimant is assessed forum fees in the amount of \$500; however, Claimant is entitled to offset this amount with his hearing session deposit of \$500 previously deposited so that no fees are due from Claimant.

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

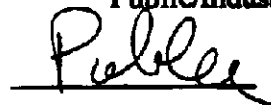
Concurring Arbitrator's Signature

Name



Stephen E. Crable, Esq.

Public/Industry



NASD Date of Decision: February 17, 1994

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provided for herein.

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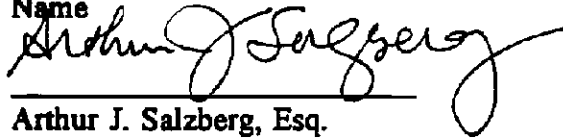
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Concurring Arbitrator's Signature

Name


Arthur J. Salzberg, Esq.

Public/Industry

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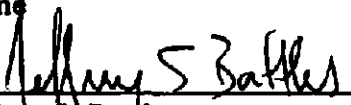
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Concurring Arbitrator's Signature

Name

Public/Industry


Jeffrey S. Battles

INDUSTRY

NASD Date of Decision: February 17, 1994