

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

William F. Schweiker & Karyn Schweiker

93-00446

Name of Respondents

Prudential Securities, Inc.
Frank Oates
Denise Benedict

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 8, 1993, Claimants William F. and Karyn Schweiker, who appeared Pro Se, alleged that on August 7, 1989 Claimant William F. Schweiker entered Respondent Prudential Securities, Inc. offices of Oates and Pelliccioni in Morgantown, West Virginia for the sole purpose of selling a lot of UpJohn, whereby Claimant William F. Schweiker was directed to a new assistant by the name of Respondent Denise Benedict. Claimants further alleged that they sold the lot of UpJohn for \$10,837.50 and assumed the proceeds would, as in the past, be automatically deposited in Claimants' money market account. Claimants contended that during the course of conversation Claimant William F. Schweiker said he would probably buy Agripost; however, there was no verbal response to this comment, no indication that it was taken as an authorization to purchase, and since Agripost was fluctuating, Claimants anticipated buying it at a better price than \$3.00 a share. Claimants further contended that Respondents used the funds from the UpJohn sale to purchase 1,800 shares of Agripost at \$5.25 per share; almost twice what Claimants had just paid a few months before. Claimants asserted that upon receiving the confirmation Claimant William F. Schweiker immediately confronted Respondent Denise Benedict and Frank Oates employees of Respondent Prudential Securities, Inc., with the objection that he had not authorized the transaction; however, Respondent Frank Oates said since Claimants had given verbal instructions in the past, it was Respondent Denise Benedict's word against Claimants and, therefore, the order must stand. Claimants further asserted that because of Respondents actions, Claimants are seeking relief in the amount of the purchase price of 1,000 shares of Agripost in question plus the sales commissions.

Respondents Prudential Securities, Inc., Frank Oates and Denise Benedict, by and through their in-house counsel, Paul M. Waldman, Esq., maintained that on August 7, 1989 Claimant William F. Schweiker visited the Morgantown branch of Respondent Prudential Securities, Inc. and Claimant William F. Schweiker specifically instructed Respondent Denise Benedict to buy Agripost stock with the proceeds from the sale of UpJohn stock executed one day before. Respondents further maintained that Claimants did not complain about Agripost to Respondent Frank Oates immediately or anytime since, and Claimant William F. Schweiker did speak to Respondents Frank Oates and Denise Benedict on several occasions following August 1989 and Claimant William F. Schweiker never mentioned any problem or voiced any displeasure with the handling of Claimants' account.

RELIEF REQUESTED

Claimants William F. and Karyn Schweiker requested \$9,770.92 in actual damages.

Respondents Prudential Securities, Inc., Denise Benedict and Frank Oates requested the claim be dismissed in its entirety.

AWARD

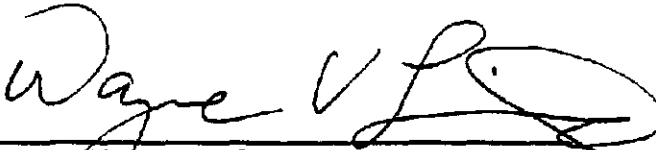
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Wayne V. Lind, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on January 27, 1992, by the Respondent Prudential Securities, Inc. on April 16, 1993 and by the Respondents Denise Benedict and Frank Oates on April 14, 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 Claimants William F. and Karyn Schweiker against Respondents Prudential Securities, Inc., Denise Benedict and Frank Oates are dismissed.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants William F. and Karyn Schweiker shall be retained by the NASD, Inc.

AFFIRMATION

I, WAYNE V. LIND, 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: July 14, 1993