

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Linda K.Y. Cottingham

and

93-01120

Name of Respondent

Prudential Securities, Inc.

REPRESENTATION OF PARTIES

Linda K.Y. Cottingham ("Claimant") was represented by James D. Jameson, Esq., Austin, Texas.

Prudential Securities, Inc. ("Respondent") was represented by Donald R. Littlefield, Esq. of Prudential Securities, Inc., Dallas, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about March 22, 1993. Submission Agreement of Claimant was signed on February 22, 1993.

Statement of Answer was filed by Respondent on or about June 2, 1993.

HEARING INFORMATION

The hearing was held on Monday, December 6, 1993 in Dallas, Texas for a total of two (2) sessions.

CASE SUMMARY

Claimant alleged that in March, 1992, against her wishes and without her approval, Mr. Skinner, an employee of Respondent sold virtually the entire IRA portfolio and invested the proceeds in several Prudential in-house mutual funds. Claimant specifically stated that this conduct constituted false, misleading and deceptive acts and practices in violation of the Texas Deceptive Trade Practices Consumer Protection Act, common law and statutory fraud, negligent misrepresentation, tortious violations of fiduciary duty and common law duties of good faith and fair dealing, in addition to violations of Texas and federal securities laws.

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Respondent denied all allegations of wrongdoing and any alleged liability to the Claimant. Respondent specifically stated that the Claimant authorized each and every transaction in the account. It was stated that when the Claimant changed her mind regarding the mutual funds, she provided Respondent with written authorization to make the sales.

RELIEF REQUESTED

Claimant requested recovery of damages (actual, treble and/or punitive) of approximately \$75,000.00 to compensate her for her losses and punish Prudential Securities, Inc. for its egregious conduct.

Respondent requested that the Statement of Claim be dismissed in its entirety and that it be awarded its costs, and attorney's fees incurred in defending this matter.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Prudential Securities, Inc. did not file with the N.A.S.D. a properly executed submission to arbitration but is required to submit to arbitration pursuant to §12 of the N.A.S.D. Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and offered testimony at the hearing is bound by the determination of the arbitration panel on all issues submitted.

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 original(s) remain on file with the N.A.S.D.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The claims asserted in this matter shall be and hereby are denied in their entirety.
2. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Pursuant to §43(c) of the N.A.S.D. Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("N.A.S.D.") shall retain the non-refundable filing fee in the amount

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of \$150.00 and shall retain as forum fees the hearing session deposit in the amount of \$500.00 previously deposited with the N.A.S.D. by the Claimant. Claimant shall pay to the N.A.S.D. the sum of \$500.00 as additional forum fees.

Forum fees are calculated at the rate of \$500.00 per hearing session and \$300.00 for each prehearing conference, if any. Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

s/ James S. Raber, Esq.
James S. Raber, Esq.
Public Arbitrator, Presiding Chair

December 13, 1993

s/ Harold L. Sutherland
Harold L. Sutherland
Public Arbitrator

s/ Wilma Dolores Mefford
Wilma Dolores Mefford
Industry Arbitrator

December 14, 1993