

10/95  
N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Estate of Leo W. Peleske

93-02125

Name of Respondent

Prudential Securities Inc.

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REPRESENTATION

For Claimant Estate of Leo W. Peleske ("Claimant"): Wesley A. Gersh, Esq. of Gersh Law Offices, P.S.C., Louisville, Kentucky

For Respondent Prudential Securities, Inc. ("Respondent"): Patrick Gaffney, Associate General Counsel, Prudential Securities, Inc., New York, New York

CASE INFORMATION

Statement of Claim filed: May 26, 1993  
Claimant's Submission Agreement signed by Leo G. Peleske as the executor for the Estate of Leo W. Peleske on: May 24, 1993

Statement of Answer filed by Respondent on: August 13, 1993  
Respondent's Submission Agreement signed on: August 12, 1993

HEARING INFORMATION

Hearing Date/Sessions: September 27, 1995 - two sessions

Hearing Location: Hyatt Regency Hotel, Louisville, Kentucky

CASE SUMMARY

Claimant alleged, among other things, that Respondent through the actions of its agent John A. Proctor, III ("Proctor") churned Claimant's account. Claimant alleged that Proctor made unauthorized transactions in Claimant's account. Claimant alleged that Proctor bought and sold bonds, mutual funds, a limited partnership interest and several other securities while he was with

Respondent and that these trades were for the benefit of Respondent at Claimant's expense. Claimant alleged that Respondent failed to adequately supervise Proctor.

Respondent categorically denied all allegations of wrongdoing asserted by Claimant. Respondent maintained, among other things, that Claimant's account was properly handled by Proctor and that both Proctor and Claimant's account were properly supervised by Respondent. Respondent maintained that the defenses of ratification, waiver, laches and/or estopped apply in the instant case. Respondent maintained that while Mr. Leo W. Peleske was alive he neither complained orally or in writing about Proctor's handling of Claimant's account.

#### RELIEF REQUESTED

Claimant, at the hearing, requested:

- a) damages of \$47,230.00
- b) interest at 8% per annum from date of trade
- c) attorneys fees of \$8,600.00

Respondent requested that Claimant's claim be dismissed in its entirety and that Claimant bear all costs.

#### 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, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. That Claimant's claim is denied in its entirety.
2. That the parties shall bear their respective costs, including attorney's fees, except as specifically addressed herein.
3. Any and all claims not specifically addressed are denied in their entirety.

**FORUM FEES**

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

2 sessions X \$1000 = \$2,000 minus hearing session deposit of \$1000  
= net \$1,000 due.

Forum Fees Assessed Against: the balance of the forum fees Claimant 50% and Respondent 50%

Claimant is assessed forum fees in the amount of \$500.

Respondent is assessed forum fees in the amount of \$500.

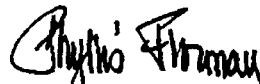
Fees are payable to the National Association of Securities Dealers, Inc.

**Concurring Arbitrators' Signatures**

**DATE:**

**NAME:**

10/25/95



Phyllis E. Florman, Esq. Chairperson  
Public Arbitrator

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Michael M. Losavio, Esq.  
Public Arbitrator

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Edward T. Kennedy  
Industry Arbitrator

Date Award Serve by the NASD:

October 31, 1995

Peleske Award  
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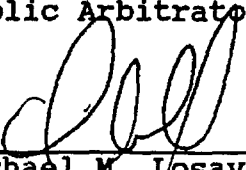
DATE:

NAME:

\_\_\_\_\_

Phyllis E. Florman, Esq. Chairperson  
Public Arbitrator

10/24/95

  
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Michael M. Losavio, Esq.  
Public Arbitrator

\_\_\_\_\_

Edward T. Kennedy  
Industry Arbitrator

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NAME:

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Phyllis E. Florman, Esq. Chairperson  
Public Arbitrator

\_\_\_\_\_  
Michael M. Losavio, Esq.  
Public Arbitrator

Oct 24, 1995

Edward T. Kennedy  
Edward T. Kennedy  
Industry Arbitrator

Date Award Serve by the NASD:

October 31, 1995