

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Perry & Iris Rootstein

93-02305

Name of Respondent

Prudential Securities, Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 10, 1993, Claimants Perry & Iris Rootstein, who appeared Pro Se, alleged that on December 14, 1992, they purchased 500 shares of Symantec Corporation, through their broker, Steve Meyers of Respondent Prudential Securities, Inc. at 14 1/8 per share whereby Respondent, by and through Mr. Meyers, called Claimant Perry Rootstein to strongly recommend that Claimants purchase the stock based upon performance expectations he shared with Respondent's analysts. Claimants further alleged that they advised Respondent, by and through Mr. Meyers, that their cash position at the time was insufficient to enter into the trade, at which time, Mr. Meyers attempted to persuade them to make the purchase on margin, and that they could expect significant appreciation in the stock within a short time, perhaps two months, whereby Claimants told Mr. Meyers that they had never purchased stock on margin and felt uncomfortable doing so, at which time, Mr. Meyers successfully allayed their concerns regarding margin purchases, and Claimants purchased the stock on margin. Claimants contended that during the ensuing three months, they watched the stock decline significantly, at which time Claimants questioned Respondent, by and through Mr. Meyers, about the decline and he continued to reiterate his expectations about the stock whereby he insisted that they "stop worrying so much". Claimants further contended that they discovered that back in September, 1992, several months prior to Respondent's recommendation, Symantec was charged by Borland in a civil suit concerning misappropriation of trade secrets and that a grand jury investigation was pending. Claimants asserted that on March 1, 1993, shortly after this discovery, they decided to sell the stock, albeit against Mr. Meyers' recommendation, and as a result of selling these 500 shares at 9 3/4 per share, they incurred a loss of \$2,329.00, including margin interest and commissions. Claimants further alleged that had Respondent disclosed this information to them, they would not have purchased

Claimants wonder whether Respondent's failure to disclose this fact was intentional because they "make a market" in the stock. Claimants further alleged that they have tried to resolve the matter with Respondent and being dissatisfied with their response, decided to contact the NASD.

Respondent Prudential Securities, Inc., by and through their in-house counsel Debbie Stone Mishan, maintained that the financial advisor, Steven Meyers inherited this account from a previous Financial Advisor on or about October, 1992 and upon Mr. Meyers speaking to Claimants Perry & Iris Rootstein, he initially recommended certain conservative ideas, which the clients rejected as they were looking for more aggressive ideas, at which time, Mr. Meyers, in light of Claimants' investment objective, initially suggested a purchase of 300 shares of Citicorp, which shares were purchased on or about November 3, 1992 whereby the clients elected to sell a previous position of Zenith Electronics Corporation subordinated debenture to pay for the Citicorp purchase. Respondent further maintained that with respect to Claimants' purchase of Symantec, this was the second stock recommended by Mr. Meyers to the Claimants, and the Claimants on December 7, 1992 purchased 500 shares of Symantec at a per share price of  $13 \frac{3}{4}$  with a mark-up of  $\frac{3}{8}$  for a price of  $14 \frac{1}{8}$ , whereby, prior to making this purchase, Claimants were advised by Mr. Meyers that Symantec, like Citicorp, was a high risk investment which Respondent had a hold rating on and more specifically, Mr. Meyers advised the Claimants of the pending litigation between Borland International and Symantec. Respondent contended that it should be noted that even after the news of the Borland lawsuit published, the price of Symantec was not really affected and the real decline in Symantec came on October 5, 1992, the day Symantec announced its results for the 1993 second quarter as reported in the October 8, 1992 Research Report whereby the price of Symantec dropped 3 points trading from the October 2, 1992 close at  $10 \frac{1}{2}$  to open at  $7 \frac{1}{2}$ ; however, Symantec only traded down for this one week period and the following week, the price for Symantec began to rebound. Respondent further contended that first and foremost, these Claimants have used margin prior to this transaction and that the facts are clear, the Claimants were fully apprised of all of the material facts relating to Symantec. Respondent asserted that Claimants were in constant contact with Mr. Meyers throughout the entire time they held this security and it was the Claimants' own choice, as admitted, to sell their shares of Symantec, thus, any loss sustained on the sale of Symantec is solely attributable to the actions of Claimants, not to either Mr. Steven Meyers nor Respondent.

#### **RELIEF REQUESTED**

Claimants Perry & Iris Rootstein requested the sum of \$2,329.00 in actual damages.

Respondent Prudential Securities, Inc. requested the claim be dismissed in its entirety with prejudice.

**AWARD**

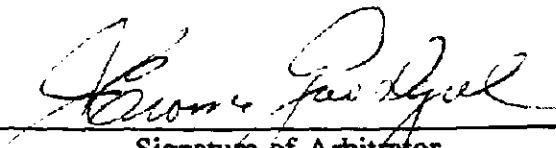
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Jerome Goodgal, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on June 6, 1993 and by the Respondent on July 20, 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 claim of Claimants Perry & Iris Rootstein against Respondent Prudential Securities, Inc. is dismissed.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Perry & Iris Rootstein shall be retained by the NASD, Inc.

**AFFIRMATION**

I, **JEROME GOODGAL**, 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.

  
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Signature of Arbitrator

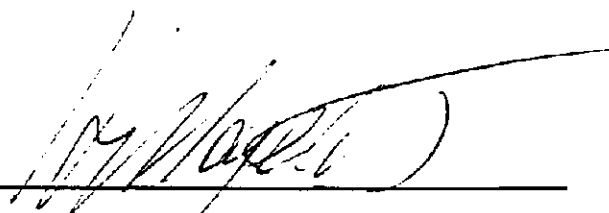
DATE OF DECISION: January 4, 1994

STATE OF: *New Jersey*

SS:

COUNTY OF: *PASSAIC*

On this 31<sup>ST</sup> day of December 1993, before me personally appeared Jerome Goodgal to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



HENRY NAGELHOUT  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES FEBRUARY 1, 1995