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N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Clarence J. Doser

Case No. 93-02666

Name of Respondents

✱ J.B. Hanauer & Co.
Richard J. George, Jr.
Prudential Securities, Inc.

REPRESENTATION

For Claimant, Clarence J. Doser ("Doser"): Matthew L. Jones, Esq. of Stuart, Florida.

For Respondent, Prudential Securities, Inc. ("Prudential"): Debra Jenks, Esq. of Boose Casey Ciklin Lubitz, et al West Palm Beach, Florida (see "Case Summary").

For Respondent, J. B. Hanauer & Co., ("JBH"): David Lichter, Esq. of Kenny Nachwalter Seymour, et al Miami, Florida.

For Respondent, Richard J. George, Jr. (" Mr. George"): pro se (see "Other Issues").

CASE INFORMATION

Statement of Claim filed: July 8, 1993. Claimant's Submission Agreement signed: June 30, 1993.

Respondent, Prudential's, Statement of Answer filed: September 9, 1993. Respondent, Prudential's, Submission Agreement signed: July 28, 1993 (see "Case Summary").

Respondent's, JBH's, Statement of Answer filed August 18, 1993. Respondent, JBH's, Submission Agreement signed: July 19, 1993.

Respondent, Mr. George, did not file a Statement of Answer or sign a Submission Agreement (see "Other Issues").

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HEARING INFORMATION

On April 5, 6 and 7, 1995, in Fort Lauderdale, Florida, hearings lasting six sessions were conducted.

CASE SUMMARY

Claimant alleged that Mr. George forged his name on two checks totaling \$23,000.00 drawn on his JBH account, Mr. George then used the money for his own use. Additionally, Doser contends Mr. George induced him to invest \$65,000.00 in a fund Mr. George termed the Money Plus Fund, induced him to invest \$50,000.00 in a fund known as Polaris XIV Fund and lastly, induced him to loan \$25,000.00 of his money to a friend of Mr. George. Doser contends it was his belief that each of these transactions were "sponsored" by JBH.

Doser's claims against JBH are for the inadequate supervision of and/or the negligent hiring of Mr. George and under the doctrine of Respondeat Superior, JBH is liable for damages suffered by Claimant for the misconduct of Mr. George while within the scope of his employment. This is true even though the employee's specific conduct was carried out without the knowledge of the principal. As such, Doser contends the actions of Mr. George were not outside the scope of his employment at JBH. It is further contended that JBH negligently hired George and that a thorough and honest examination of George's U5, CRD and a search of the public records would have indicated he was a thoroughly unethical and dishonest broker. Negligent hiring occurs when prior to the time the employee is actually hired, the employer know or should have known of the employee's unfitness.

Respondent, JBH, generally denied the allegations of the Statement of Claim that were directed to JBH. Respondent, JBH, contended that many, if not all, of the transactions complained about occurred at a time when Claimant did not have his account at JBH. In addition, Respondent contended that Claimant specifically approved of certain of the transactions about which he now complains; this approval also formed the basis for the decision by the NASD to take no action concerning Respondent broker Richard George and some of the actions which form the basis to the Statement of Claim. With respect to any actions by Mr. George that may have occurred while Claimant had his account at JBH those actions were completely outside the scope of Mr. George's employment and JBH had no means of supervising Mr. George's actions which occurred outside the scope of Mr. George's normal duties at JBH. Finally, Respondent JBH, contended that it could not be responsible for private transactions occurring between Claimant and another party.

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Respondent, Prudential, was dismissed by Claimant from this proceeding on September 27, 1994.

Respondent, Mr. George never filed a Statement of Answer or appeared at the hearing.

RELIEF REQUESTED

Claimant requested actual damages totaling \$216,139.00, punitive damages, attorney's fees, costs and for such other relief as the Panel deems just and proper.

Respondents requested that Claimant be awarded nothing, that Claimant be required to pay for all the costs and expenses of the arbitration proceeding including JBH's costs and attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

Service of the Claim was not perfected against Respondent, Mr. George. Therefore, all claims against Richard J. George, Jr. are hereby dismissed without prejudice. The parties in this matter are free to re-raise any claim or allegations of wrongdoing against Mr. George in any future proceedings in accordance with applicable law.

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 arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

Respondent, JBH, is found liable and shall pay to the Claimant the amount of \$23,000.00.

Claimant's request for attorney's fees, costs, expenses, and punitive damages are denied.

Respondent's request for attorney's fees, costs and expenses are denied.

OTHER COSTS

Other than as provided below the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

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FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$4,500.00 (six hearing sessions X \$750.00 per session).

Claimant is hereby assessed \$2,250.00 for which the NASD shall retain the \$750.00 previously deposited in partial satisfaction thereof leaving a balance due to the NASD of \$1,500.00.

Respondent, JBH, is hereby assessed \$2,250.00 payable to the National Association of Securities Dealers, Inc.

The NASD shall retain the non-refundable filing fee of \$200.00 paid by the Claimant.

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

Concurring Arbitrators' Signatures

/s/
Guthrie F. Crowe

Public

/s/
Irving I. Hanzman

Industry

/s/
Robert K. Ruskin, Esq.

Public

Date of Decision: May 10, 1995