

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Louis T. Mattioli

93-03086

Name of Respondents

Prudential Securities, Inc.
John W. Whelan
Stewart W. Damon, II

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 5, 1993, the Claimant Louis T. Mattioli, who appeared pro se, alleged that Respondent Prudential Securities Inc. through its broker, Respondent John W. Whelan, recommended that he sell his shares of Northeast Utilities and purchase RJR Nabisco Convertible Preferred Stock. The Claimant contended that Mr. Whelan did not inform him of the high level of debt of RJR Nabisco. The Claimant further contended that this was an unsuitable recommendation, since it did not follow his investment objective of not jeopardizing his principal. The Claimant alleged that he reported this to Respondent Stewart W. Damon, II who later told him that his complaint was forwarded to their law office. The Claimant also alleged that as of the date his Statement of Claim was filed, his principal was reduced by forty-five percent.

Respondents Prudential Securities Inc., John W. Whelan, and Stewart W. Damon, II, through their counsel, John M. Powers, Esq. of Prudential Securities Inc., New York, N.Y., maintained that the RJR Nabisco stock was suitable given the Claimant's level of sophistication, existing securities portfolio, and investment objectives. The Respondents maintained that the Claimant's statement that his investment objective was to not jeopardize principal was not true since the Claimant, with twenty three years of investment experience, knew that when purchasing stocks the entire principal was put at risk.

The Respondents further maintained that Mr. Whelan made several other recommendations to the Claimant, but that the Claimant was merely alleging that the RJR Nabisco stock was unsuitable because it did not make any money. The Respondents maintained that they did handle the account in a prudent manner, and requested that the claim be dismissed.

RELIEF REQUESTED

Claimant Louis T. Mattioli, requested \$9,800.00 in actual damages.

Respondents Prudential Securities Inc., John W. Whelan, and Stewart W. Damon, II, requested that the Statement of Claim be dismissed and that all legal costs and expenses be assessed against the Claimant.

AWARD

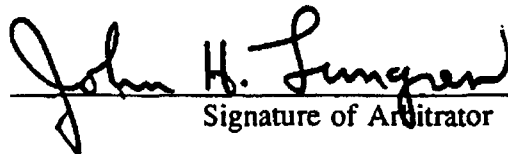
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, John H. Lungren, Esq. was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on September 17, 1993 and by the Respondents John W. Whelan and Stewart W. Damon, II on October 13, 1993 and by the Respondent Prudential Securities, Inc. on November 2, 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 the Claimant Louis T. Mattioli against the Respondents Prudential Securities, Inc., John W. Whelan and Stewart W. Damon, II, are dismissed in their entirety.
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 Claimant shall be retained by the NASD, Inc. Respondent Prudential Securities, Inc. is liable and share reimburse to the Claimant \$75.00 representing one-half of the filing fee.

AFFIRMATION

I, JOHN H. LUNGREN, ESQ., 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: April 13, 1994