

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Sheryl Bishop,
Fred Woodrow, and
Mark Lewis

Claimants,

v.

No. 93-04434

Prudential Securities, Inc., and
J. Stephen Stout

Respondents.

REPRESENTATION OF PARTIES

Claimants Sheryl Bishop, Fred Woodrow, and Mark Lewis ("Lewis") was represented by Sheryl Bishop. Claimants Sheryl Bishop, Fred Woodrow, and Mark Lewis had been previously represented by George R. Hamo, Esq. of Flint, Michigan.

Respondent Prudential Securities, Inc. ("PSI") was represented by Steven J. Weiss, Esq. of Hertz, Schram & Saretsky, P.C. located in Bloomfield Hills, Michigan.

Respondent J. Stephen Stout filed for Bankruptcy, and did not appear at the Hearing.

CASE INFORMATION

The Statement of Claim was filed on or about October 4, 1993.

Claimants' Joint Submission Agreement was signed on October 1, 1993.

Respondent Prudential Securities, Inc.'s Statement of Answer was filed on or about January 24, 1994.

Respondent Prudential Securities, Inc.'s Submission Agreement was signed on January 24, 1994 by Peter Byer, Vice President of Prudential Securities, Inc.

The Amended Statement of Claim was filed on or about December 1, 1995.

The Answer to Claimants' Amended Statement of Claim was filed on or about August 20, 1996.

HEARING INFORMATION

The hearing was held on: November 20, 1995 for one (1) session; and
August 28, 1996 for one (1) session.

The hearing was held in Detroit, Michigan.

CASE SUMMARY

This matter originated as an arbitration claim filed by Claimants Sheryl Bishop, Fred Woodrow, and Mark Lewis against Respondents Prudential Securities, Inc. and J. Stephen Stout arising out of transactions conducted in their accounts at PSI. The claim addressed various purchases made by the Claimants pursuant to the advice of their broker, J. Stephen Stout, in certain limited partnerships consisting of Fox Capital / Growth Hotels, VMS Realty, Duke Realty, and Prudential Bache Energy Fund #12.

Respondent PSI alleged that, on July 6, 1995, Sheryl Bishop agreed to a settlement of a claim in the expedited arbitration procedure established in agreement with the Securities and Exchange Commission in connection with PSI's sale of limited partnership investments to its customers in the 1980's. Respondent PSI alleged that the expedited arbitration claim involved the same investments placed at issue in this action, and that the settlement absolved PSI of any further liability.

Claimant Lewis subsequently filed an Amended Statement of Claim, and alleged that an account was established in the amount of \$11,011.32 and opened with 876 units of American Capital. Claimant Lewis asserted that he tried unsuccessfully to obtain funds from the account, and was told that there were no funds, and that the funds were embezzled.

Respondent PSI denied that any funds were embezzled, and that the present claim is barred by any conceivable statutes of limitation, and the eligibility limitations set forth in Section 15 of the NASD Code of Arbitration Procedure. Respondent PSI asserted that Sheryl Bishop liquidated the units long before she supposedly was told in 1990 that the funds had been stolen.

RELIEF REQUESTED

Claimant Mark Lewis requested that all Trust Fund monies be returned, along with an award of interest.

Respondent Prudential Securities, Inc. requested that the Statement of Claim be dismissed in its entirety and reimbursement for the costs and attorney fees it has wrongly incurred.

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 original(s) remain on file with NASD Regulation, Inc. Office of Dispute Resolution.

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) That the Statement of Claim is dismissed in its entirety with prejudice; and
- (2) That other than forum fees, which are addressed below, all other claims and requests for relief not specifically awarded here are, and each of them, hereby dismissed with prejudice.

FORUM FEES

Forum fees are calculated at the rate of \$1,000 per hearing session and \$300 for each pre-hearing conference, if any. There were two (2) hearing sessions x \$1,000 = \$2,000 in forum fees. Pursuant to §10332(b) of the NASD Code of Arbitration Procedure (the "Code"), a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$250 and shall **retain** as forum fees the hearing session deposit in the amount of \$1,000 previously deposited with NASD Regulation, Inc. Office of Dispute Resolution by Claimants.

Pursuant to §10332(c) of the Code, Respondent Prudential Securities, Inc. is liable for, and shall pay forum fees in the amount of \$1,000.

Pursuant to §10319 of the Code, the panel hereby waives the \$1,000 postponement fee previously assessed against the Claimants.

Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.

Concurring Arbitrators' Signatures

\s\ Richard G. Porter, Esq.
Richard G. Porter, Esq.
Chairperson
Public Arbitrator

September 6, 1996
Dated:

\s\ David E. Nims, III, Esq.
David E. Nims, III, Esq.
Panelist
Public Arbitrator

September 9, 1996
Dated:

\s\ Joseph R. Papo
Joseph R. Papo
Panelist
Industry Arbitrator

September 23, 1996
Dated:

For NASD use only:
Date award served on the parties: September 23, 1996