

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimants

Victor H. Hemmy, Sr.
Florence S. Hemmy
Victor H. Hemmy, Jr.
Candace P. Hemmy

NASD Arbitration
No.93-04729

Name of Respondents

Prudential Securities, Inc.
First Honolulu Securities, Inc.
Gregory F. Kowal

REPRESENTATION

For Claimants: Cedric Choi, Esq., Honolulu, Hawaii

For Respondents: Prudential Securities: Randall Y. Kunn char, Esq., Honolulu, Hawaii

CASE INFORMATION

Statement of Claim filed: November 12, 1993

Claimants' Submission Agreements signed:

Victor Hemmy, Sr.:	October 26, 1993
Florence Hemmy:	October 26, 1993
Victor Hemmy, Jr.:	October 28, 1993
Candace Hemmy:	October 28, 1993

Joint Statement of Answer filed: January 18, 1994

Respondents' Submission Agreements signed:

Prudential Securities:	January 18, 1994
First Honolulu Securities:	January 18, 1994
Gregory Kowal:	January 18, 1994

HEARING INFORMATION

A pre-hearing telephone conference lasting one session was held on January 30, 1995.

The evidentiary hearing was held in Honolulu, Hawaii, as follows:

April 25, 1995	-	2 sessions
April 26, 1995	-	1 session

CASE SUMMARY

Claimants alleged failure to disclose, negligence, lack of suitability, misrepresentation, fraud, violations of the Hawaii Securities Act, violations of the Hawaii Unfair and Deceptive Trade Practices Act, and breach of fiduciary duty arising out of their investments in the senior debentures of Westfed Holdings, Inc., a holding company for Western Federal Savings and Loan Association. Claimants also alleged that Prudential held an undisclosed dual agency as both buyer and seller in the transactions at issue.

Respondents denied the allegations of the claim, and asserted that the elder Hemmys were sophisticated, experienced investors who chose to invest in high yield bond issues. Respondents asserted that the younger Hemmys invested after speaking with the elder Hemmys. Respondents also asserted that Claimants authorized all transactions, that Claimants did not rely on the statements of Respondents and that Claimants failed to mitigate damages. Respondent Prudential also asserted that it was only a clearing broker in this matter, and therefore, had no liability to Claimants.

RELIEF REQUESTED

Claimants requested damages of \$139,792.50, plus interest, treble damages, punitive damages, costs of arbitration and attorney's fees.

Respondents requested dismissal of all claims.

OTHER ISSUES CONSIDERED AND DECIDED

Prior to hearing, Claimants dismissed their claims against First Honolulu Securities, Inc. and Gregory F. Kowal. Prudential Securities is the only Respondent remaining in this case.

AWARD

At the conclusion of Claimants' case, Respondent moved to dismiss based on Prudential's lack of a fiduciary obligation to Claimants. After hearing argument on the motion, the panel granted the motion.

Before this Award could issue, Claimants filed a motion for reconsideration. Upon consideration of that motion and Respondents written opposition, the undersigned arbitrators have

decided in full and final resolution of the matters presented as follows:

1. The motion to dismiss is granted.
2. The motion to reconsider is denied.
3. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$250 non-refundable filing fee paid by Claimants.

Claimants' \$1,000 hearing session deposit shall be retained as an assessment of forum fees for one session.

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

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Walter P. Hitchcock	Public Chairperson
Diana L. Clarke	Public Panelist
Zadoc W. Brown, Jr.	Industry Panelist

Concurring Arbitrators' Signatures

Walter P. Hitchcock

STATE OF

COUNTY OF

On the _____ day of _____, 1995, before me personally appeared _____ to me known and known to me to be the person who executed the foregoing instrument, and who acknowledged to me that he/she executed same.

Notary Public

Diana L. Clarke

STATE OF

COUNTY OF

On the 12th day of JULY, 1995, before me personally appeared DIANA L. CLARKE to me known and known to me to be the person who executed the foregoing instrument, and who acknowledged to me that he/she executed same.

Arnette H. Vlas
Notary Public

Zadoc W. Brown, Jr.

STATE OF

COUNTY OF

On the _____ day of _____, 1995, before me personally appeared _____ to me known and known to me to be the person who executed the foregoing instrument, and who acknowledged to me that he/she executed same.

Notary Public

Date Served: 7/19/95

decided in full and final resolution of the matters presented as follows:

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3. The parties shall each bear their respective costs including attorney's fees.

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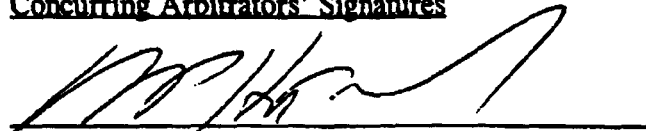
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ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Walter P. Hitchcock	Public Chairperson
Diana L. Clarke	Public Panelist
Zadoc W. Brown, Jr.	Industry Panelist

Concurring Arbitrators' Signatures

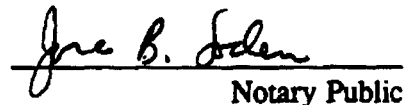


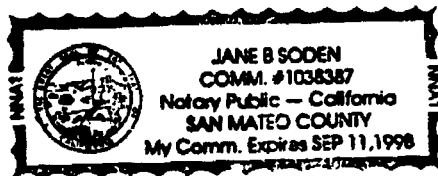
Walter P. Hitchcock

STATE OF *CALIFORNIA*

COUNTY OF *SAN MATEO*

On the *30th* day of *June*, 1995, before me personally appeared **WALTER P. HITCHCOCK** me known and known to me to be the person who executed the foregoing instrument, and who acknowledged to me that he/she executed same.


Notary Public




Diana L. Clarke

STATE OF

COUNTY OF

On the _____ day of _____, 1995, before me personally appeared _____ to me known and known to me to be the person who executed the foregoing instrument, and who acknowledged to me that he/she executed same.

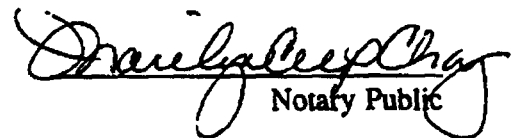
Notary Public



Zadoc W. Brown, Jr.

STATE OF HAWAII }
COUNTY OF MAUI } S.

On the 5th day of July, 1995, before me personally appeared Zadoc W. Brown, Jr. to me known and known to me to be the person who executed the foregoing instrument, and who acknowledged to me that he/she executed same.


Notary Public

Date Served: 7/19/95

MY COMM. EXPIRES: 6-6-98