

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Mary M. Hisgen

94-00763

Name of Respondent(s)

Prudential Securities Inc
Domonic (Tom) Pierdomonici

REPRESENTATION

Claimant, Mary Hisgen ("Hisgen") was pro se.

For Respondents, Prudential Securities, Inc. ("Prudential") and Domonic (Tom) Pierdomonici ("Pierdomonici"): Robert Saperstien, Esq. of Prudential.

CASE INFORMATION

Statement of Claim filed: February 28, 1994. Claimant's Submission Agreement signed on: June 10, 1994.

Statement of Answer filed by Respondents, Prudential and Pierdomonici on: August 11, 1994. Respondent, Prudential's Submission Agreement signed on: August 10, 1994 by Laurie Giolito, Esq. on behalf of Prudential and Respondent, Pierdomonici's Submission Agreement signed on: August 5, 1994.

HEARING INFORMATION

On May 1, 1995 a pre-hearing conference was held via telephone conference call with an arbitrator.

On May 9, 1995 a hearing lasting two (2) session was conducted in Tampa, Florida.

CASE SUMMARY

Claimant, alleged that Respondents were liable for: misrepresentation. Claimant alleged that Pierdomonici failed to provide her with a prospectus prior to selling her two closed-end bond funds and failed to advise her that the principal would fluctuate. Claimant also alleged that the

broker created a false sense of urgency to purchase the investment and that, when the two funds merged, Prudential took 150 shares from Claimant's 10,000 total shares instead of charging a blanket fee for the merger.

Respondents denied all allegations of wrongdoing and alleged that: the investments were suitable and profitable in that Claimant desired and received over \$50,000.00 in income; the broker explained in detail the possible risks and rewards involved in the funds and sent numerous documents to Claimant both before and after her investment which disclosed all material facts; Claimant admitted receiving risk disclosure documents prior to her investment; and, Claimant waited four years before writing a complaint letter. Respondent also alleged that, at the hearing in this matter, Claimant no longer alleged that the broker told her the investment had no risk to the principal. Respondents also requested dismissal of the claim pursuant to Section 15 of the NASD Code of Arbitration Procedure ("Code") and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested damages in the amount of \$50,000.00 which represented \$15,900.00 in lost principal, \$1,500 worth of shares, \$15,000.00 in potential earnings lost and \$17,600.00 for related stress.

Respondents requested dismissal of the claim and counterclaimed for costs and attorney's fees.

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 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:

1. Respondents are found not liable and, therefore, the claim against them is hereby dismissed.
2. Claimant is found not liable to Respondents on their counterclaim for costs and, therefore, the counterclaim is hereby dismissed.

OTHER COSTS

Other than the forum fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the panel has assessed forum fees in the amount of \$1,100.00 (two session x \$400.00 per session plus one prehearing conference x \$300.00).

1. Claimant is hereby assessed \$550.00 for which the NASD shall retain the \$400.00 hearing session deposit previously paid by Claimant leaving a balance due to the NASD of \$150.00.
2. Respondent, Prudential is hereby assessed \$550.00 for which the NASD shall retain the \$350.00 previously paid for the hearing session deposit for the counterclaim, leaving a balance due the NASD of \$200.00.
3. The NASD shall retain the \$120.00 nonrefundable filing fee previously paid by Claimant.
4. The NASD shall retain the \$500.00 nonrefundable filing fee previously paid by Respondent, Prudential.

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

Concurring Arbitrators' Signatures
Name

Public/Industry

/s/
Cynthia A. Henderson, Esq.

Public/Chairperson

/s/
Lon Hatton

Industry

/s/
Robert Hoffman

Public

Date of Decision: 7-10-95