

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Carol L. (Irion) Neely

94-01544

Name of Respondents

Prudential Securities, Inc.
David R. Davis

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 26, 1994, Claimant Carol L. (Irion) Neely, who appeared pro se, alleged that Respondents Prudential Securities, Inc. ("PSI") and David R. Davis ("Davis"), misrepresented an investment to her and did not properly manage her account. Claimant further alleged that Respondent Davis recommended that she purchase MXX stock, and represented that she could lose no more than \$800.00. Claimant contended that she purchased 300 shares of MXX on January 29, 1992, at \$14 5/8 per share. Claimant further contended that the price of MXX steadily declined, and Davis failed to keep her informed about her investment. Claimant alleged that she sold her 300 shares on July 7, 1993 at \$4 7/8 per share, causing a loss for which Respondents should be held liable.

Respondents Prudential Securities, Inc. and David R. Davis, through their representative, Alisa K. Strauss, Esq., New York, N.Y., maintained that Davis and the Claimant spoke on a regular basis regarding MXX for the first several months after the Claimant purchased the stock. Respondents further maintained that beginning in April or May of 1992, Davis called the Claimant on a monthly basis, and more often if he had additional information on MXX. Respondents contended that when MXX closed at \$16.625 on May 29, 1992, Davis called the Claimant to let her know and Claimant told Davis that, despite the profit she could make, she did not want to sell her shares. Respondents further contended that Claimant made it impossible for Davis to conduct a working business relationship with her by neglecting to return numerous messages left for her. Respondents maintained that the Claimant chose to hold on to MXX for almost a year after cutting off all contact with Davis and Respondents should not be held liable for her loss.

RELIEF REQUESTED

Claimant Carol L. (Irion) Neely, requested \$3,715.55 in actual damages.

Respondents Prudential Securities, Inc. and David R. Davis, requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Aaron Fenton, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 16, 1994 and by the Respondents Prudential Securities, Inc. and David R. Davis on July 18, 1994 and August 11, 1994, respectively.

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. Respondents Prudential Securities, Inc. and David R. Davis are jointly and severally liable and shall pay to the Claimant Carol L. (Irion) Neely, \$2,400.00 in actual damages.
2. Respondents Prudential Securities, Inc. and David R. Davis are jointly and severally liable and shall pay to the Claimant Carol L. (Irion) Neely, interest at the rate of 8% per annum commencing thirty days from the date of this Award until the date of payment.
3. The parties shall bear their respective costs.
4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Carol L. (Irion) Neely, shall be retained by the NASD, Inc. Respondents Prudential Securities, Inc. and David R. Davis are jointly and severally liable and shall pay to the Claimant \$62.50 as partial reimbursement of the filing fee.

Page Three
Award 94-01544

AFFIRMATION

I, AARON FENTON, 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.



Aaron Fenton

DATE OF DECISION; June 29, 1995