

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Janina King

94-01843

Name of Respondents

Prudential Securities, Inc.  
Anthony Black

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 18, 1994, Claimant Janina King, who appeared Pro Se, alleged that Respondents Prudential Securities, Inc. ("PSI") and Anthony Black ("Black") purchased securities for her account without her authorization. Claimant further alleged that on June 14, 1990 she contacted Respondent Black who worked for Respondent PSI to inquire as to the price and commission charge to purchase 2,000 shares of the commonstock of Union Federal Bank. Claimant contended that Respondent Black was supposed to call her back with his lowest commission level but instead purchased 2,000 shares at 10 7/8 without her authorization. Claimant further contended that Respondents refused to correct this error and on June 25, 1990 the shares were sold at a loss for which Respondents should be held liable.

Respondents Prudential Securities, Inc. and Anthony Black, through their in-house counsel, Peter T. Kujawski, maintained that at the time of the complained of transaction, Claimant maintained a securities account with Respondents and upon opening her account, she represented to Respondents that she had no accounts with other brokerage firms. Respondents further maintained that they therefore had every right to accept as authorization Claimant's statement that she "wanted to do the trade that day". Respondents contended that the stock purchase was referenced as an unsolicited transaction, meaning that the Claimant initiated the purchase absent recommendation of any kind by the broker. Respondents further contended that Claimant has failed to prove her claims by a preponderance of the evidence. Respondents maintained that they owed no duty to Claimant to "bust" the trade and that this is an exception, not the rule, to be used only when there is a genuine, demonstrable mistake on the part of the broker and this is not the case here. Respondent Black further maintained that Claimant instructed him to purchase

2,000 shares of UnionFed Financial Corporation with the best discount available and this order was filled at 15:36.35 EST on June 14, 1990 at a price of \$10.875 per share which included a 30% discount on the commission. Respondent Black contended that Claimant's statement that he was to discuss the discount with his branch manager is false as he was already empowered to discount the commission at his discretion.

### **RELIEF REQUESTED**

Claimant Janina King requested \$2,077.37 in actual damages.

Respondents Prudential Securities, Inc. and Anthony Black 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, Gloria Edmonson, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on June 9, 1994, by Respondent Anthony Black on August 10, 1994, but not signed by Respondent Prudential Securities, Inc. as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

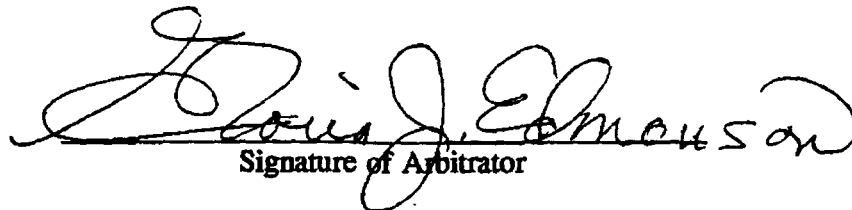
And, the Arbitrator, having considered the proof the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Prudential Securities, Inc. and Anthony Black are jointly and severally liable and shall pay to Claimant Janina King \$2,077.37 in actual damages.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondents Prudential Securities, Inc. and Anthony Black are jointly and severally liable and shall pay to Claimant \$50.00 as reimbursement of the filing fee.

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**AFFIRMATION**

I, **GLORIA EDMONSON**, 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:**      March 28, 1995