

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Prudential Securities, Inc.

94-01999

Name of Respondent

Byron C. Wiswell

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 1, 1994, Claimant Prudential Securities, Inc., through its representative and in-house counsel, Denis J. McCarthy, Esq., New York, N.Y., alleged that Respondent Byron C. Wiswell, failed to repay commissions which were advanced to him. Claimant further alleged that Respondent was hired as a registered representative on June 2, 1986. Claimant contended that while he was employed, Respondent had several clients who opened Investment Managed Accounts pursuant to which Respondent was advanced his commission with the understanding that he would have to repay the commission should the client close his account. Claimant further contended that Respondent resigned on June 21, 1993, and thereafter, three of his clients closed their Investment Managed Accounts, causing a commission deficit which Respondent has refused to repay.

Respondent Byron C. Wiswell, did not file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant Prudential Securities, Inc., requested \$4,549.68 in actual damages, plus interest, costs and attorney's fees.

Respondent Byron C. Wiswell, did not file an Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED & DECIDED

In accordance with Section 10 of the NASD Code of Arbitration Procedure, the Respondent Byron C. Wiswell, was served by regular mail and given an opportunity to respond, which he failed to do. In addition, an overdue answer notice was sent to the Respondent by certified mail return receipt requested and was received as evidenced by the signed return card on file at the NASD, Inc.

Pursuant to the By-laws of the NASD, the Arbitrator determined that Respondent Byron C. Wiswell, had notice of the claim, and was required to submit to this arbitration proceeding; and is, therefore, bound by the arbitrator's ruling and determination.

AWARD

Pursuant to Section 10 of the NASD, Inc. Code of Arbitration Procedure, a single Industry Arbitrator, John T. McGuire, Esq., was selected to review the matter in controversy between the parties set for in Submissions to Arbitration signed by the Claimant on May 26, 1994 and not by the Respondent as required by sections 8 and 10 of the NASD Code of Arbitration Procedure.

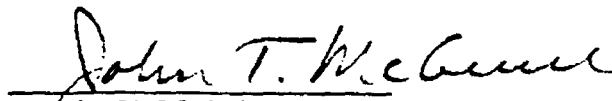
And, the arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Byron C. Wiswell, is liable and shall pay to the Claimant Prudential Securities, Inc., \$4,549.68 in actual damages.
2. The parties shall bear their respective costs.
3. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Prudential Securities, Inc., shall be retained by the NASD, Inc. Respondent Byron C. Wiswell, is liable and shall pay to the Claimant \$575.00 as reimbursement of the filing fee.

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AFFIRMATION

I, **JOHN T. MCGUIRE, ESQ.**, 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.


John T. McGuire, Esq.

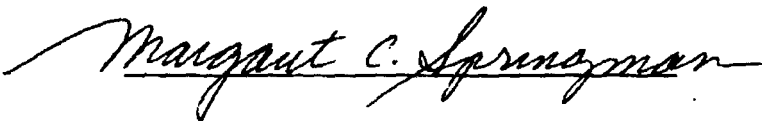
DATE OF DECISION: June 30, 1995

STATE OF NEW YORK

SS:

COUNTY OF NEW YORK

On this 27 day of JUNE 1995, before me personally appeared JOHN T. MCGUIRE, ESQ., to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



MARGARET C. SPRINGMANN
Notary Public, State of New York
No. 01SP4697068
Qualified in Richmond County
Certificate Filed in New York County
Commission Expires Oct. 31, 95