

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Joan R. Palmer

and

NASD Case Number: 94-02358

Name of Respondent

Prudential Securities, Inc.

REPRESENTATION OF PARTIES

Claimant Joan R. Palmer was represented by Walter L. Baumgardner, Esq. of Musilli, Baumgardner, Wagner & Parnell located in St. Clair Shores, Michigan.

Respondent Prudential Securities, Inc. was represented by Dennis K. Egan, Esq. of Butzel Long located in Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed with the National Association of Securities Dealers, Inc. ("NASD") by Claimant Joan R. Palmer on or about June 21, 1994.

Claimant Joan R. Palmer's Submission Agreement was signed on August 5, 1993.

Respondent Prudential Securities, Inc.'s Statement of Answer was filed with the NASD on or about November 14, 1994.

The NASD has no record that Respondent Prudential Securities, Inc. signed a Submission Agreement.

HEARING INFORMATION

The hearing was held on:

September 11, 1995 for one (1) session;

March 1, 1996 for one (1) session;
March 25, 1996 for one (1) session; and
May 3, 1996 for two (2) sessions.

. . . The hearing location was Southfield, Michigan.

CASE SUMMARY

Claimant Joan R. Palmer ("Claimant") alleged that she opened a brokerage account with Respondent Prudential Securities, Inc. ("Respondent") in 1984. Claimant asserted that, at the time the account was opened, Claimant indicated that she wanted investments in which there would be minimum risk to principal. Claimant maintained that, due to the recommendations of Respondent, Claimant made an investment in 1984 Polaris Aircraft Trust IX on October 31, 1984 in the amount of \$50,000. Claimant alleged that, on or about November or December 1991, Claimant discovered that the representations of Respondent as to the market value of Claimant's investments were false, and that Respondent knew they had been false since the time of the investments. Claimant asserted claims, which included: violation of the Securities Exchange Act of 1933 and 1934, violation of the NASD Rules of Fair Play, common law fraud, and breach of duty.

-- Respondent Prudential Securities, Inc. denied all liability to Claimant in its Statement of Answer. Respondent alleged that Polaris IX was consistent with Claimant's stated investment objective of tax sheltered income and the Polaris IX prospectus clearly disclosed the investment risks. Respondent asserted that any loss that may have been incurred by the Claimant was due to market forces. Respondent maintained that all claims are barred by applicable statute of limitation.

RELIEF REQUESTED

Claimant requested an award in the amount of \$62,500, together with interest and costs incurred in having to file this claim.

Respondent requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Prudential Securities, Inc. did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to §12 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim and appeared at the hearing is bound by the determination of the arbitration panel on all issues submitted.

Respondent Prudential Securities, Inc.'s Motion to Dismiss was denied.

The parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD.

Arbitrator Robert E. Parker, Esq. resigned from the panel after the commencement of the first hearing session but prior to the rendition of the award. After being notified of Mr. Parker's resignation, the parties did not object to continuation of the hearing. Pursuant to Section 24 of the NASD Code of Arbitration Procedure, the remaining arbitrators continued with the hearing and determination of the controversy.

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. Respondent Prudential Securities, Inc. is liable for and shall pay to Claimant Joan R. Palmer compensatory damages in the amount of Thirty Thousand Dollars and No Cents (\$30,000.00), inclusive of interest;
2. Respondent Prudential Securities, Inc. is hereby assessed all forum fees incurred in this matter;
3. Other than forum fees which are specified below, the parties shall each bear their own costs, expenses and attorney's fees incurred in this matter; and
4. Any relief not specifically enumerated is hereby denied.

FORUM FEES

Forum fees are calculated at the rate of \$500 per hearing session. There were five (5) hearing sessions x \$500 = \$2,500 in forum fees. Pursuant to §43(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$150 previously deposited with the NASD by the Claimant. The NASD shall refund the hearing session deposit in the amount of \$500 previously deposited with the NASD by the Claimant. The NASD shall retain the Section 45 Member Surcharge in the amount of \$200.

Respondent Prudential Securities, Inc. is assessed and shall pay forum fees in the amount of \$2,500.

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

Concurring Arbitrator's Signatures

\s\ Robert J. Scarfuri, Esq.

Robert J. Scarfuri, Esq.

Chairperson

Public Arbitrator

May 8, 1996

Dated:

\s\ Jay B. MacKenzie

Jay B. MacKenzie

Panelist

Industry Arbitrator

May 8, 1996

Dated:

For NASD use only:

Date award served on the parties: May 16, 1996