

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Helen Berger

95-00275

Name of Respondents

Douglas L. Shearer
Stanley Q. Mok

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 17, 1995, Claimant Helen Berger ("Claimant"), who appeared Pro Se, alleged that Respondents Douglas L. Shearer ("Shearer"), and Stanley Q. Mok ("Mok"), pressured her into changing her Prudential Insurance Annuity Contract #99-728-110 ("PIA") to Prudential Flexible Discover Plus Contract #94-523-304 ("PFDP") to her detriment. Claimant further alleged that Mok knew that she was a conservative investor and misled her. Claimant contended that Mok assured her that there would be little or no change in the principal. Claimant further contended that she contacted Mok within a few weeks and attempted to change the accounts back, to no avail. Claimant alleged that as a result of the above, she has suffered a loss for which the Respondents should be held liable.

Respondents Douglas L. Shearer and Stanley Q. Mok, through their representative and in-house counsel, at Prudential Securities, Inc., Ralph S. Blascovich, Esq., maintained that Mok reviewed with Claimant the status of her PIA investment and discussed at length the various options she could pursue to deal with falling interest rates. Respondents further maintained that Claimant was unhappy with the interest rate return on her PIA investment and decided to invest in PFDP, because she believed that the market interest rates would continue to decline. Respondents contended that Claimant made this decision after receiving a prospectus for PFDP. Respondents further contended that the Claimant wanted to change her investment decision, but Shearer informed her that more than 30 days had passed since the change and he would be unable to grant her request. Respondents maintained that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimant Helen Berger, requested \$10,000.00 in actual damages.

Respondents Douglas L. Shearer and Stanley Q. Mok, requested that the claims of the Claimant be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator reviewed and considered all documentation submitted by the parties concerning Respondent Douglas L. Shearer's Motion to Dismiss Claimant's Statement of Claim Against Him with Prejudice. The Arbitrator granted the Motion.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Chet Olsen, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Helen Berger, on January 12, 1995, and by the Respondent Stanley Q. Mok, on March 23, 1995, and not by Respondent Douglas L. Shearer, as required by Sections 12 and 13 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. The claims of the Claimant Helen Berger, against Respondent Stanley Q. Mok, are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Helen Berger, shall be retained by the NASD, Inc.

AFFIRMATION

I, CHET OLSEN, 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.



Chet Olsen

DATE OF DECISION: November 27, 1995