

NASD REGULATION, INC. AWARD

Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimants

Robert A. Sanchez
Ramon Santa Coloma

Case No. 95-00768

Name of Respondents

Prudential Securities, Inc.
Leland Holtzman

REPRESENTATION OF PARTIES

For Claimants Robert A. Sanchez ("Sanchez") and Ramon Santa Coloma ("Coloma"): Bruce A. Katzen, Esq. of the law firm of Kluger, Peritz, Kaplan & Berlin, P. A., Miami, Florida.

For Respondents Prudential Securities, Inc. ("Prudential") and Leland Holtzman ("Holtzman"): Marc S. Dobin, Esq. of the law firm of Boose Casey Ciklin Lubitz Martens McBane and O'Connell, West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim was filed on February 14, 1995. Amendment to Claim was filed on March 21, 1995. Submission Agreement of Claimant Sanchez was signed on April 12, 1995. Submission Agreement of Claimant Coloma was signed on April 12, 1995.

Statement of Answer and Counterclaim was filed by Respondents on August 7, 1997. Submission Agreement of Prudential was signed on June 30, 1997.

Respondent Holtzman did not execute a Submission Agreement.

HEARING INFORMATION

The evidentiary hearing was held on June 30, July 1 and 2, 1997, in Fort Lauderdale, Florida for a total of six sessions.

CASE SUMMARY

Claimants alleged that Respondents made misrepresentations and fraudulently induced Sanchez and Coloma to leave their positions at Dean Witter, Inc. to join Prudential. Claimants contended that Respondents breached their representations to, and the employment agreements of, Sanchez and Coloma by refusing to do business with qualified customers of the Claimants, discriminating against Claimants, and by giving preferential treatment to other brokers.

Respondents denied the allegations contained in the Statement of Claim and asserted that the sole purpose for Coloma's filing of the Statement of Claim was to avoid repaying the balance due on a loan of \$175,000.00. Respondents denied that any misrepresentations were made to either Claimant and asserted that the Claimants left Prudential's employ voluntarily for a new position at Smith Barney, Inc.

Respondent Prudential filed a counterclaim in which it alleged that Coloma executed a promissory note, had defaulted on the payments, and owed the balance to Prudential.

Respondent Coloma did not file a response to the counterclaim but put on a defense at the hearing in which he testified that Respondents' breach relieved him of the obligation to repay the promissory note.

RELIEF REQUESTED

Claimants requested damages in the amount of \$500,000.00, punitive damages and prejudgment interest. Claimant Coloma requested dismissal of the counterclaim.

Respondents requested dismissal of all claims asserted by the Claimants. In addition, Respondent Prudential requested damages in the amount of \$147,055.62 in its counterclaim plus an award of attorney's fees and costs pursuant to the terms of the note, executed by Coloma.

OTHER ISSUES CONSIDERED & DECIDED

1. During the hearing of this matter, the Panel was informed that on June 16, 1997, Claimants dismissed, with prejudice, Respondent Holtzman as a party to this case. Therefore, the Panel has made no findings regarding Mr. Holtzman.
2. The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to received conformed copies of the Award while the originals remain on file with NASD Regulation, Inc., Office of Dispute Resolution.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Prudential is found liable and shall pay to Claimant Sanchez the amount of \$13,675.00, exclusive of prejudgment interest.
2. Respondent Prudential is also found liable and shall pay to Claimant Coloma the amount of \$6,520.00, exclusive of prejudgment interest.
3. Claimants' requests for punitive damages and prejudgment interest are denied.
4. Claimant Coloma is found not liable to Prudential on the promissory note and, therefore, all claims against him are hereby dismissed.
5. Respondent Prudential's requests for costs and attorney's fees are denied.

FORUM FEES

Pursuant to Rule 10205(b) of the Code, a hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to Rule 10205(c) of the Code, the panel has assessed forum fees in the amount of \$4,500.00 (6 hearing sessions x \$750.00 per session).

1. Claimants are assessed the sum of \$2,250.00, jointly and severally, for which NASD Regulation, Inc. shall retain the \$750.00 previously deposited, in partial satisfaction thereof, leaving a balance due to NASD Regulation, Inc. in the sum of \$1,500.00.
2. Respondent Prudential is assessed the sum of \$2,250.00, for which NASD Regulation, Inc. shall retain the \$750.00 previously deposited, in partial satisfaction thereof, leaving a balance due to NASD Regulation, Inc. in the sum of \$1,500.00.
3. NASD Regulation, Inc. shall retain the non-refundable filing fees in the amount of \$500.00 paid by the Claimants and Respondents, respectively.
4. Pursuant to Rule 10319 of the Code, NASD Regulation, Inc. shall retain the \$750.00 postponement fee deposited by the Claimants.

Fees are payable to NASD Regulation, Inc.

Concurring Arbitrators Signatures

/s/
Robert S. Natiss
Industry Arbitrator, Presiding Chair

/s/
Fred B. Schack
Industry Arbitrator

/s/
Bruce S. Foerster
Industry Arbitrator

Date of Decision: August 14, 1997