

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant

Liberty Capital Markets, Inc.

v.

NASD Arbitration
No. 95-00904

Name of Respondents

Prudential Securities, Inc., Steven McCoy, Scott C. Kersh, Howard N. Herring and Gene Richard Lombardo, Jr.

REPRESENTATION

For Claimant:

David M. Grey, Esq.
Turner, Cooper & Reynolds
Irvine, California
and
Joseph L. Alioto, Esq.
Law Offices of Joseph L. Alioto
San Francisco, California

For Respondents Prudential Securities, Inc.,
Steven McCoy, Scott C. Kersh, and Howard N. Herring:

Michael J. Lawson, Esq. and
Joseph E. Floren, Esq.
Steefal, Levitt & Weiss
San Francisco, California

For Respondent Gene Richard Lombardo, Jr.:

C. William Kircher
Kircher & Nakazato
Newport Beach, California

CASE INFORMATION

Statement of Claim filed: February 13, 1995

Claimant's Submission Agreement signed: February 10, 1995

Joint Statement of Answer filed by Respondents Prudential Securities, Inc.,
Steven McCoy, Scott C. Kersh, and Howard N. Herring: April 10, 1995

Statement of Answer filed by Respondent Gene Richard Lombardo, Jr: April 10, 1995

HEARING INFORMATION

Hearing Dates / Sessions: February 12, 1996 (2 Sessions)
February 13, 1996 (2 Sessions)
February 14, 1996 (2 Sessions)
February 15, 1996 (2 Sessions)
February 16, 1996 (2 Sessions)
March 25, 1996 (2 Sessions)
March 26, 1996 (2 Sessions)
March 27, 1996 (2 Sessions)
March 28, 1996 (2 Sessions)
March 29, 1996 (2 Sessions)
April 22, 1996 (2 Sessions)
April 23, 1996 (3 Sessions)
April 24, 1996 (2 Sessions)
April 25, 1996 (2 Sessions)
May 13, 1996 (2 Sessions)
May 14, 1996 (2 Sessions)
May 15, 1996 (2 Sessions)
May 16, 1996 (2 Sessions)
May 22, 1996 (2 Sessions)
May 23, 1996 (2 Sessions)
May 24, 1996 (2 Sessions)
June 17, 1996 (2 Sessions)
June 18, 1996 (2 Sessions)
June 19, 1996 (2 Sessions)
June 20, 1996 (3 Sessions)
July 8, 1996 (2 Sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant alleged that Respondents engaged in unfair business practices and breached their contract by transferring accounts from Claimant's business to the Respondents' accounts. Claimant further alleged breach of fiduciary duty, defamation, raiding of Claimant's executives and customers, and misappropriation of trade secrets.

Respondents denied all of the Claimant's allegations of wrongdoing.

RELIEF REQUESTED

Claimant requested damages in an amount to be determined at the arbitration. Claimant also requested punitive and exemplary damages.

Respondents requested dismissal of all of the Claimant's claims and an award of the costs of this proceeding. Respondents also filed a Motion to Dismiss which was heard by the arbitration panel on July 8, 1996.

OTHER ISSUES CONSIDERED AND DECIDED

After the arbitration hearings had commenced, counsel for Respondent Gene Richard Lombardo, Jr. and Claimant's counsel stipulated to the dismissal of Respondent Lombardo with prejudice.

The parties have agreed that the Award in this matter may be executed in either counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented during the Claimant's case-in-chief, and after considering the oral and written submissions of the parties concerning Respondents' Motion for Nonsuit/Motion to Dismiss, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents' Motion for Nonsuit/Motion to Dismiss as to all Respondents is granted pursuant to NASD Code of Arbitration Procedure Section 35. All of the Claimant's claims, including the claims for punitive and exemplary damages, are denied in their entirety. The Arbitrators specifically decline the request for dismissal pursuant to NASD Code of Arbitration Procedure Section 16 as the Arbitrators intend this Award to fully and finally resolve this matter.
2. Forum fees will be assessed at the reduced rate of \$1000.00/Session.
3. Each party is to bear its own costs, including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

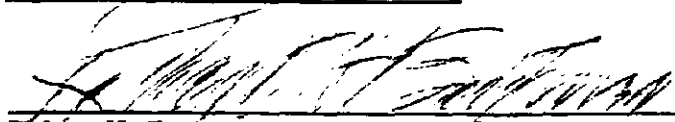
| | | |
|---|---|-------------|
| Fifty-Four Hearing Sessions @ \$1000.00/Session | = | \$54,000.00 |
| Total Fees Assessed | = | \$54,000.00 |
| Claimant's One-Half Share | = | \$27,000.00 |
| Credit for Hearing Session Deposit | = | \$ 1,500.00 |
| Claimant's Balance Due | = | \$25,500.00 |
| Respondents' One-Half Share | = | \$27,000.00 |
| Respondents' Balance Due | = | \$27,000.00 |

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

ARBITRATORS

| Name | Public / Industry |
|-------------------|---------------------|
| Robert H. Bothner | Industry Arbitrator |
| Leo B. Rotter | Industry Arbitrator |
| Robert D. Sussin | Industry Arbitrator |

Concurring Arbitrators' Signatures


Robert H. Bothner

Leo B. Rotter

Robert D. Sussin

Date of Decision:  5/7/76

Date of Service: _____

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Robert D. Sussin

Date of Decision: July 8, 1996

Date of Service: August 13, 1996