

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

John R. and Margaret M. Genter

95-01544

Name of Respondents

Peter Emmanuel
Prudential Securities, Inc

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 27, 1995, Claimants John R. and Margaret M. Genter ("Claimants"), who appeared Pro Se, alleged that Respondents Peter Emmanuel ("Emmanuel") and Prudential Securities, Inc. ("PSI"), misrepresented the quality and quantity of research undertaken by Respondent Emmanuel regarding the purchase on February, 1993 of 200 shares of Synergen at \$52.35 recommended by Emmanuel to Claimants. Claimants further alleged that Respondents executed unauthorized trades in the Claimants' account as follows: 1) purchase of 100 shares Synergen at 46 3/4 on August 27, 1992; 2) purchase of 100 shares Olicom at 20.716 on April 1, 1993. Claimants contended that Respondent PSI failed to adequately supervise Emmanuel regarding his unprofessional and negligent management of Claimants' brokerage account. Claimants further contended that as a result of above, they have suffered a loss for which the Respondents should be held liable.

Respondent Prudential Securities, Inc., through its in-house counsel, Dennis McCarthy, Esq., maintained that Emmanuel, undertook appropriate research, and fully and fairly disclosed all relevant factors associated with the proposed Synergen investment, including risks and potential returns. Respondent further maintained that even if Emmanuel had represented himself to Claimant as having inside information, Claimants own culpability would then preclude recovery from an inherently tainted transaction. Respondent contended that Claimants, even while acknowledging that the 2-3 years price projected by Emmanuel's opinion letter is a "forecast", imposed an opportunistic and manipulative translation of this brief letter stating it is a "guarantee" of future earnings. Respondent further contended that the two trades alleged by Claimants to be unauthorized were in fact authorized and ratified by Claimants, and that, notwithstanding this authorized status, Claimants' account on both occasions was made whole via subsequent credits issued by Respondent. Respondent maintained that convincing evidence of Claimants' authorization and ratification of all contested investments can be seen in fact that Claimants maintained their relationship with Emmanuel and PSI for a period of years before filing the current Statement of Claim. Respondent further maintained that as a result of the above, it should not be held liable.

RELIEF REQUESTED

Claimants John R. and Margaret M. Genter, requested \$8,824.50 in actual damages.

Respondents Peter Emmanuel and Prudential Securities, Inc., requested that the claims of the Claimants be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

The arbitrator considered and reviewed all documentation regarding the Claimants' request to continue with the discovery of documents from Respondent Prudential Securities, Inc. The arbitrator denied the request.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, James A. Cormack, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants John R. and Margaret M. Genter, on March 22, 1995, and by the Respondent Prudential Securities, Inc., on September 27, 1995.

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 Claimants John R. and Margaret M. Genter, against the Respondents Prudential Securities, Inc. and Peter Emmanuel, are denied 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 Claimants John R. and Margaret M. Genter, shall be retained by the NASD, Inc.

AFFIRMATION

I, JAMES A. CORMACK, 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.

James A. Cormack

Signature of Arbitrator

DATE OF DECISION: January 29, 1996