

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Herbert Rothberg

95-01946

Name of Respondents

Prudential Securities, Inc.
Barrett N. Sinowitz

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 19, 1995, Claimant Herbert Rothberg ("Claimant"), who appeared Pro Se, alleged that Respondents Prudential Securities, Inc. ("PSI"), and Barrett N. Sinowitz ("Sinowitz"), recommended that he should purchase shares of Pain Suppression Lab. ("PSL") which he followed to his detriment. Claimant further alleged that he purchased a total of 10,300 shares on four separate occasions upon Sinowitz's recommendation that he should average down. Claimant contended that Sinowitz told him that PSL needed capital investment in order to promote its product more efficiently. Claimant further contended that Sinowitz continued to assure him that the company was doing well and that he should hold on to his shares and that in August of 1994, he was notified that the stock was worthless. Claimant alleged that as a result of the above, he has suffered a loss for which the Respondents should be held liable.

Respondents Prudential Securities, Inc., and Barrett N. Sinowitz, through their representative and in-house counsel, Mary La Manna Ulrich, Esq., maintained that none of the PSL stock purchases were solicited by Sinowitz. Respondents further maintained that Claimant was informed that the investment was highly risky and a questionable investment. Respondents contended that the purchases of PSL are the only purchases which are market "unsolicited" in Claimant's account. Respondents further contended that no misrepresentations were made to the Claimant and that the falling price of the stock was evidence that the stock was financially unstable. Respondents maintained that the Claimant failed to mitigate his damages, because he did not sell when he could have made a profit, but held on to the stock. Respondents further maintained that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimant Herbert Rothberg, requested \$1,298.06 in actual damages.

Respondent Prudential Securities, Inc. and Barrett N. Sinowitz, requested that the claims of the Claimant be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator reviewed and considered requests for reconsideration of the Section 15 Motion previously decided by the NASD. The Arbitrator denied the requests for reconsideration.

AWARD

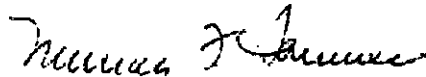
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Murray I. Sommer, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Herbert Rothberg, on April 19, 1995, and by the Respondent Prudential Securities, Inc., on June 14, 1995, and by Respondent Barrett N. Sinowitz, on June 8, 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 Claimant Herbert Rothberg, against Respondents Prudential Securities, Inc., and Barrett N. Sinowitz, are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Herbert Rothberg, shall be retained by the NASD, Inc.
4. All other relief requests are denied.

AFFIRMATION

I, MURRAY I. SOMMER, ESQ., do hereby affirm, pursuant to Article 7507 of the Civil Procedure Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



Murray I. Sommer, Esq.

DATE OF DECISION: November 20, 1995