

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Ralph L. and Michaela V. Amato

v.

Case No.

95-04102

Name of Respondent(s)

Prudential Securities Inc

Keith L. Polishook

REPRESENTATION

For Claimants Ralph L. Amato and Michaela V. Amato ("Claimants") appeared pro se.

For Respondents Prudential Securities, Inc. ("Prudential") and Keith L. Polishook ("Polishook")(collectively referred to as "Respondents") appeared Theodore A. Krebsbach, Esq., with law offices located in New York, New York.

CASE INFORMATION

Statement of Claim filed: August 25, 1995.

Joint Submission Agreement signed on: September 2, 1995.

Respondents did not sign a Submission Agreement.

Joint Statement of Answer filed by Respondents on: March 5, 1996

This case was consolidated with case number 95-6039 -Ralph L. Amato and Michaela V. Amato v. Prudential Securities, Inc. and Scott Blechner, George Hallad and Joseph Nittolo, however, the panel dismissed the Statement of Claim, in 95-6039, in its entirety.

HEARING INFORMATION

Pre-Hearing Conference Date/Session: May 30, 1996 - One Session

Hearing Date/Sessions: December 12, 1997 - Two Sessions

The hearing was conducted at the offices of NASD Regulation, Inc. located in Boston, Massachusetts.

CASE SUMMARY

Claimants alleged that Polishook, their registered representative, failed to secure their written authorization for the transaction as required by an agreement entered into by Claimant and Respondent Prudential. Claimants further alleged that Polishook engaged in churning. Thus, Claimants alleged that

Polishook acted willfully, maliciously, fraudulently and with deceit through his actions.

Respondents alleged that Claimants were experienced investors who understood the securities industry. Respondents alleged that Polishook's responsibilities as Claimants' registered representative included executing orders, servicing their account, responding to information requests and providing recommendations. Respondents alleged that Claimants had previously brought a claim against Prudential which settled for \$50,000.00. Respondents asserted that these monies were then deposited into Claimants' account towards future investment purposes. Respondents admit that part of the settlement agreement between them and Claimants included a provision requiring Claimants to confirm their orders in writing during the balance their stay with the firm. Respondents asserted that Claimants sent unsolicited written instructions to Polishook directing him to purchase certain securities. Respondent asserted that Claimants' orders were executed, as well as other written instructions to purchase other shares. Respondents further alleged that Claimants were in full control of their account throughout the transactions. Respondents alleged that Claimants placed several orders for which they failed to submit the written instructions for trades as required by the terms of the settlement agreement. Respondents asserted that the trades were authorized, suitable and profitable for the Claimants.

RELIEF REQUESTED

Claimants requested compensatory and treble damages in the amount of \$15,305.43 and punitive damages in the amount of \$84,694.57 [the total amount of damages = \$100,000.00].

Respondents requested that the Statement of Claim be dismissed, and that Respondents be awarded their fees and expenses, including attorney fees, witnesses travel to travel, and the costs of any arbitration hearing fees.

OTHER ISSUES CONSIDERED & DECIDED

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 receive conformed copies of the Award while the originals remain on file with the NASD.

AWARD

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

1. The Claimants' Statement of Claim against Respondents is dismissed in its entirety.
2. The parties are to bear their respective costs and including attorneys' fees.
3. All other requests for relief are denied.

FORUM FEES

Pursuant to Rule 10205(c) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$250.00 non-refundable filing fee previously deposited by the Claimants. The arbitrators have assessed the following forum fees:

Pursuant to Rule 10319 of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation shall retain the \$1,000.00 postponement fee previously deposited by the claimants.

2 hearing session x \$1,000.00	= \$2,000.00
1 pre-hearing conference x \$1,000.00 (full panel)	= \$1,000.00

minus Claimants' \$1,000.00 deposit = < \$1,000.00 >

TOTAL OUTSTANDING = \$2,000.00

Claimants are hereby liable and shall pay to NASD Regulation \$1,500.00 representing one-half of the forum fees assessed. Claimants previously deposited \$1,000.00 with NASD Regulation. Therefore, Claimants shall pay to NASD Regulation, Inc. \$500.00 in satisfaction of their forum fees obligation.

Respondent Prudential is hereby liable and shall pay to NASD Regulation, Inc. the sum of \$1,500.00 representing one-half of the forum fees assessed. Therefore, Respondent Prudential shall pay to NASD Regulation, Inc. \$1,500.00 in satisfaction of outstanding forum fees.

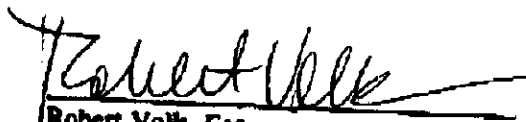
Respondent Prudential is hereby liable and shall pay to NASD Regulation, Inc. the sum of \$500.00 representing the member surcharge assessed pursuant to Rule 10333 of the Code.

No forum fees have been assessed against Respondent Polishook.

The fees assessed above are payable to the National Association of Securities Dealers, Inc.

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Arbitrators' Signatures


Robert Volk, Esq.
Chairperson, Public

Mark J. Gianno, CPA
Industry Panelist


John R. Thompson
Public Panelist

Date of Decision: February 13, 1998

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Arbitrators' Signatures

Robert Volk, Esq.
Chairperson, Public



Mark J. Gianni, CPA
Industry Panelist

John R. Thompson
Public Panelist

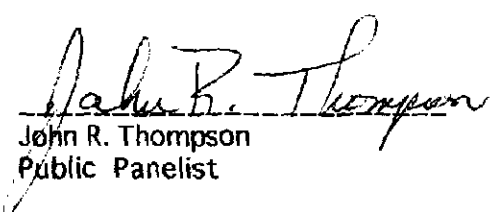
Date of Decision: February 13, 1998

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Arbitrators' Signatures

Robert Volk, Esq.
Chairperson, Public

Mark J. Gianno, CPA
Industry Panelist



John R. Thompson
Public Panelist

Date of Decision: February 13, 1998