

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimants

**John M. Pellas
Dolores J. Pellas**

and

NASD Case Number: 95-04133

Name of Respondents

**Prudential Securities, Inc.
Rankin Revel Rawlings**

REPRESENTATION OF PARTIES

Claimants John M. Pellas and Dolores J. Pellas appeared pro se.

Respondents Prudential Securities, Inc. and Rankin Revel Rawlings were represented by Gabriel Loubier, Esq. of Prudential Securities, Inc. located in New York, New York.

CASE INFORMATION

The Statement of Claim was filed with the National Association of Securities Dealers, Inc. ("NASD") by Claimants John M. Pellas and Dolores J. Pellas on or about August 29, 1995.

Claimants' Joint Submission Agreement was signed on August 23, 1995.

The Joint Statement of Answer was filed with the NASD by Respondents Prudential Securities, Inc. and Rankin Revel Rawlings on or about October 18, 1995.

The NASD has no record that Respondent Prudential Securities, Inc. signed a Submission Agreement.

Respondent Rankin Revel Rawlings' Submission Agreement was signed on October 26, 1995.

HEARING INFORMATION

The pre-hearing conferences were held on March 6, 1996 for one (1) session and April 29, 1996 for one (1) session. The pre-hearing conferences were held via telephone.

The Hearing was held on May 2, 1996 for two (2) sessions and May 3, 1996 for two (2) sessions. The Hearing location was New Orleans, Louisiana.

CASE SUMMARY

Claimants John M. Pellas and Dolores J. Pellas ("Claimants") alleged that Respondent Rankin Revel Rawlings ("Rawlings") was a broker with Respondent Prudential Securities, Inc. ("PSI"). Claimants maintained that they discussed their investment needs for a large portion of their retirement funds with Respondent Rawlings. Claimants contended that at all times they emphasized safety of principal as their primary objective and concern. Claimants asserted that they purchased 11,000 shares of Prudential Strategic Fund, Inc. at \$10 per share for \$110,000, and 2,700 shares of Global Government Plus Fund, Inc. at \$9 7/8 per share for \$27,119.44. Claimants alleged that they made these investments based on assurances from Respondent Rawlings that the investments would not be volatile or fluctuate. Claimants maintained that during May and June of 1988 they became aware that the value of both funds began to drop, but that Respondent Rawlings assured them "not to worry." Claimants alleged that Respondent Rawlings recommended that they make additional investments on margin to recoup Claimants' loss. Claimants asserted that they purchased stocks on margin, including Cypress Semi Conductor Corp. and ARMCO, Inc. Claimants contended that, despite a loss of over \$49,000 in less than two years, Respondent Rawlings continued to reassure Claimants that things would get "brighter." Claimants alleged that in late 1991 Respondent Rawlings admitted that Claimants' money was invested in junk bonds.

Respondents Prudential Securities, Inc. ("PSI") and Rankin Revel Rawlings ("Rawlings") denied all liability to Claimants in the Joint Statement of Answer. Respondents alleged that Claimants' allegations that their investments were misrepresented were without merit. Respondents asserted that Respondents never suggested that there were no risks to Claimants' principal. Respondents maintained that Claimants were aware that the value of their funds could fluctuate. Respondents alleged that Claimants received a prospectus which they had an obligation to review. Respondents asserted that the fact that an investment does not perform well as a customer would like does not render it unsuitable or misrepresented. Respondents contended that a brokerage firm is not a guarantor of profit or an insurer against loss.

RELIEF REQUESTED

Claimants requested an award of \$100,000, plus interest and punitive damages.

Respondents PSI and Rawlings requested that the Statement of Claim be dismissed in its entirety, and an award for all costs incurred in the defense of this claim assessed against Claimants.

OTHER ISSUES CONSIDERED & DECIDED

Respondent PST's Motion to Dismiss pursuant to Section 15 of the NASD Code of Procedure was denied by a unanimous ruling of the arbitration panel.

Respondent Prudential Securities, Inc. did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to §12 of the NASD Code of Arbitration Procedure (the "Code") and having answered the Statement of Claim and appeared at the hearing is bound by the determination of the arbitration panel on all issues submitted.

The parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD.

AWARD

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

1. Respondent Prudential Securities, Inc. is liable for and shall pay to Claimants John M. Pellas and Dolores J. Pellas compensatory damages in the amount of Thirty One Thousand Four Hundred and Thirty Five Dollars and No Cents (\$31,435.00), plus post-judgement interest at the Mississippi Statutory Rate, which shall begin to accrue on May 3, 1996 until the date the Award is paid in full;
2. Respondent Rankin Revel Rawlings is liable for and shall pay to Claimants John M. Pellas and Dolores J. Pellas compensatory damages in the amount of Three Thousand Four Hundred and Ninety Two Dollars and No Cents (\$3,492.00), plus post-judgement interest at the Mississippi Statutory Rate, which shall begin to accrue on May 3, 1996 until the date the Award is paid in full;
3. Respondent Prudential Securities, Inc. shall reimburse Claimants John M. Pellas and Dolores J. Pellas for the hearing session deposit paid to the NASD in the amount of Five Hundred Dollars and No Cents (\$500.00);
4. Claimants' request for punitive damages is denied with prejudice;
5. Other than forum fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
6. Any relief not specifically enumerated is hereby denied.

FORUM FEES

Forum fees are calculated at the rate of \$500 per hearing session and \$300 per pre-hearing session, if any. There were four (4) hearing sessions x \$500 = \$2,000 in forum fees. There were two (2) pre-hearing sessions x \$300 = \$600 in forum fees. Total forum fees = \$2,600. Pursuant to §43(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$150 previously deposited with the NASD by the Claimants. The NASD shall retain the hearing session deposit in the amount of \$500 previously deposited with the NASD by the Claimants.

Respondent Prudential Securities, Inc. is assessed and shall pay to the NASD forum fees in the amount of \$2,100. Respondent Prudential Securities, Inc. is assessed and shall pay the Section 45 Member Surcharge in the amount of \$300.

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

Concurring Arbitrators' Signatures

/s/ Daniel Eugene Bivins, III
Daniel Eugene Bivins, III
Chairperson
Public Arbitrator

May 13, 1996
Dated:

/s/ S. David Holladay
S. David Holladay
Panelist
Public Arbitrator

May 13, 1996
Dated:

/s/ Ronald M. Roberts, PhD.
Ronald M. Roberts, PhD.
Panelist
Industry Arbitrator

May 13, 1996
Dated:

For NASD use only:
Date award served on the parties: May 22, 1996