

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION

In the Matter of the Arbitration Between

Name of Claimant

Elizabeth J. Grigson

95-04901

Name of Respondents

Prudential Securities, Inc.
James Bailey

REPRESENTATION

Claimant Elizabeth J. Grigson ("Claimant") was represented by James N. Gross, Esq., Philadelphia, PA.

Respondents Prudential Securities, Inc. ("PSI") and James Bailey ("Bailey") were represented by Norman L. Ashkenas, Assistant General Counsel, Prudential Securities, Inc., New York, NY.

CASE INFORMATION

The Statement of Claim was filed October 17, 1995.

Claimant's Uniform Submission Agreement was signed October 3, 1995.

The Joint Statement of Answer of PSI and Bailey (collectively "Respondents") was filed March 29, 1996. Respondents did not submit executed agreements to arbitrate.

HEARING INFORMATION

Hearing Date/Sessions: November 29, 1996/two sessions

Hearing Location: NASD Regulation D.O.
Philadelphia, PA

CASE SUMMARY

Claimant alleged, among other things, that Respondents induced her to authorize investments through a series of misrepresentations and omissions which Claimant relied upon. In addition, Claimant alleged that Respondents executed two unauthorized trades in her account. Claimant alleged that the purpose of these actions was to provide commissions and fees to Respondents and not to benefit Claimant. Claimant alleged that she requested assistance in investing funds from an inheritance and that Respondents knew she was an inexperienced investor. Claimant alleged that Respondents had been informed that her primary investment goal was income. Claimant alleged that Respondents failed to inform her there would be front-end sales charges. In fact, Claimant alleged that Respondents represented that there would be

no sales charges until the securities were sold. Claimant alleged that Respondents failed to inform her of the availability of a letter-of-intent which would have saved her significant costs on the purchase of her mutual funds. Claimant alleged that she received no written materials or prospectus prior to the transactions and only received them after the transactions, and directly from the fund family. Claimant alleged that Respondents placed her in four different fund families thus robbing her of discounts.

Respondents denied all allegations of wrong-doing as asserted in the statement of claim. Respondents maintained that all risks, rewards and fees associated with each and every transaction executed in Claimant's account was fully explained to Claimant prior to every transaction. Respondents also maintained that each transaction was ratified and approved prior to execution by Claimant. In addition, Respondents raised the affirmative defenses of failure to state a claim upon which relief can be granted; that Claimant had full knowledge of all material facts concerning the investments she made, including the nature of the investments and the associated risks; ratification and estoppel; assumption of risk; and failure to mitigate damages. Respondents maintained that any loss suffered by Claimant was the result of Claimant's own decisions and the fluctuations of the market.

RELIEF REQUESTED

Claimant requested relief in the amount of \$21,966.54.

Respondents requested that the statement of claim be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD. >

Arbitrator considered Claimant's Request For Change of Venue to Hawaii as well as the Respondents Response thereto, and denied the Request.

That pursuant to the by-laws of the NASD, the arbitrator determined that Respondents were required to submit to this arbitration, notwithstanding their failure to submit an executed agreement to arbitrate. Therefore, Respondents are bound by the arbitrator's rulings and determinations.

AWARD

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

1. That Respondents are jointly and severally liable to and shall pay to Claimant the sum of \$10,500.00.
2. That each party is to bear its own costs and expenses except as specifically addressed in the Forum Fees.
3. That any relief not specifically addressed herein is denied.

FORUM FEES

Pursuant to Rule 10332(c) (formerly Section 43) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

2 Sessions x \$300.00 = \$600.00

Forum Fees are assessed at \$300.00 to Claimant and \$300.00 to Respondents jointly and severally. Claimant is to receive credit for the \$300.00 hearing session deposit previously submitted to the NASD Regulation, leaving Claimant with no further assessment. Respondents have a net assessment due of \$300.00.

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

DATE

ARBITRATOR'S SIGNATURE

12/12/96

Joseph R. Lally
Joseph R. Lally, Presiding

Date Decision Served by NASD Regulation: December 17, 1996