

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Joseph H. and Mary Lou Purvis

95-05030

Name of Respondents

Prudential Securities Inc
Thomas N. Tronolone

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 24, 1995, claimants Joseph H. and Mary Lou Purvis ("claimants") stated that until 1992 they had made good returns on their investments with local banks and credit unions but in order to not out live their retirement funds, they sought out mutual funds. After researching several companies, claimants stated they decided on respondent Prudential Securities ("Prudential") since they were allegedly told by Mr. Bryant that their investments would be handled "like they were his mother's," that they could change to other Prudential funds at no charge, they could put their money in a money market fund and that Prudential networked with other firms.

Claimants alleged they were keeping a close watch on their money, even posted the daily fluctuations. According to claimants, Bryant continually told them they could trust Greg Smith, Prudential's Chief Investment Strategist, and so they purchased the Utility Fund for the Prudential Equity Income Fund. Claimants contended they became concerned about the interest rates in January 1994 and continued to check their investments daily. Claimants claimed to have requested Bryant put their funds in a money market account by the last day in February and this was not done.

In November 1994, Bryant left Prudential and claimants received a package of forms for them to transfer their account. They declined to transfer the account.

Respondents maintained that claimants opened an account with Prudential on December 10, 1992 in the Savannah branch office. Claimants allegedly told Bryant they had an annual income of \$25,000, liquid assets of \$100,000 and a net worth in excess of \$350,000 which he recorded on a new account form where he also noted their investment objectives were speculation and long term growth.

In March of 1993 claimants opened two IRA accounts for themselves with Bryant. Respondents argued that claimants, during the interview, acknowledge that their financial situation had not changed but that they were seeking long term growth and income and that they had twenty years of investment experience.

Mrs. Purvis opened another account in May 1993 and allegedly stated that her financial situation had not changed and that her objectives were income and long term growth.

Respondents contended that claimants accounts were overall profitable and that there is no action at law for "bad advice". They argued that all of the investments were suitable, they were all explained and claimants received prospectuses for each investment. Respondents further argued that Bryant did not make any misrepresentation and that he only stated his opinion.

Respondents asserted the following affirmative defense: failure to state a claim, claimants had full knowledge, claimants directed and authorized all the transactions, ratification, there was no misrepresentation or omission, assumption of risk, claimant's have not suffered any loss, the investments were suitable, no liability for market fluctuation and there are no facts pled which support punitive damages.

RELIEF REQUESTED

Claimants Joseph and Mary Lou Purvis requested \$9,998.00 in actual damages.

Respondent Prudential Securities, Inc. requested that the claims be dismissed plus reimbursement of costs including attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

Claimants notified the NASD on April 30, 1996 that they had removed Respondent Tom Tronolone from the case.

On October 8, 1996 the panel notified the parties that they had accepted claimants' motion to amend the Statement of Claim which reduced the amount in controversy to \$9,998.00.

AWARD

Pursuant to Section 10308 of the NASD, Inc. Code of Arbitration Procedure, a full panel with a majority of public arbitrators was appointed to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the claimants on October 16, 1995 and respondent on February 26, 1996.

And, having considered the proof of the parties, the panel has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of claimants Joseph H. and Mary Lou Purvis against respondent Prudential Securities, Inc. be and hereby are dismissed in their entirety.
2. Each party shall bear it's own costs.
3. The \$200.00 non-refundable filing fee and \$750.00 hearing session deposit previously deposited with NASD Regulation, Inc. by the claimants shall be retained by NASD Regulation, Inc.

ARBITRATORS' SIGNATURES

A. Keith Logue
Public Chairman

Robert H. Putnam, Jr. Esq.
Public Panelist

Chesley V. Morton, Jr.
Industry Panelist

DATE OF DECISION:

ARBITRATORS' SIGNATURES

A. Keith Logue
Public Chairman



Robert H. Putnam, Jr. Esq.
Public Panelist

Chesley V. Morton, Jr.
Industry Panelist

DATE OF DECISION:

March 4, 1997

ARBITRATORS' SIGNATURES



A. Keith Logue
Public Chairman

Date of Decision 3/4/97

Robert H. Putnam, Jr. Esq.
Public Panelist

Chesley V. Morton, Jr.
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