

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Harriet Wishnick

and

No. 96-00537

Name of Respondents

Prudential Securities, Inc. and Anne Lane Davidson

REPRESENTATION OF PARTIES

Harriet Wishnick ("**Claimant**") was represented by Robert Tobey, Esq. of Johnston & Budner located in Dallas, Texas.

Prudential Securities, Inc. and Anne Lane Davidson ("**Respondents**") were represented by Gabriel Loubier, Esq. of Prudential Securities, Inc. located in New York, New York.

CASE INFORMATION

The Statement of Claim was filed on or about February 7, 1996. Submission Agreement of Claimant was signed on January 25, 1996.

Statement of Joint Answer was filed by all Respondents on or about April 12, 1996. Submission Agreement of Respondent was signed on April 12, 1996 by Donald Littlefield, Vice President and Assistant General Counsel. Submission Agreement of Respondent Anne Lane Davidson was signed on May 13, 1996.

HEARING INFORMATION

The hearing was held on October 14, 1996 for three (3) sessions, and October 15, 1996 for three (3) sessions for a total of six (6) sessions. The hearing was held in Dallas, Texas.

CASE SUMMARY

Claimant alleged that she opened an investment accounts at Respondent Prudential Securities, Inc.'s Dallas office. She opened the account at the firm in her name and granted power of attorney to her son Joel. Claimant allegedly indicated that safety of principal along with income was her primary investment objective. Respondent Anne Lane Davidson recommended bonds issued by Blackrock Securities. Claimant invested over \$268,000.00 in Blackrock Securities based upon Respondent's recommendations. Blackrock Securities have since suffered a large decline in value. Claimant further alleged that the losses incurred by Claimant will not be recouped if the security is held to maturity. Causes of Action alleged by Claimant included fraud, misrepresentation, unsuitability, failure to supervise, and violations of state and federal statute.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated that Claimant and her son Joel specifically authorized each and every trade in their accounts. The investments made were suitable for the accounts at the time that they were made. Respondents further stated that Claimant was provided with a prospectus which described in detail the nature of the investments and the risks.

RELIEF REQUESTED

Claimant requested an award in the amount of \$97,000.00 in actual damages, additional damages under the Deceptive Trade Practices Act, Punitive damages, return of trading commissions, pre-award interest, post award interest, forty percent contingent attorneys' fees on all damages awarded.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDE

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 NASD Regulation, Inc. Office of Dispute Resolution.

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). That the Statement of Claim is dismissed in its entirety with prejudice; and
- (2). That other than forum fees, which are addressed below, all other claims and requests for relief not specifically awarded here are, and each of them, hereby denied with prejudice.

FORUM FEES

Forum fees are calculated at the rate of \$500 per hearing session. There were six (6) sessions x \$500 = \$3,000 in forum fees. Pursuant to §10332(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 §10332(c) of the NASD Code of Arbitration Procedure, NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$150 and shall **retain** as forum fees the hearing session deposit in the amount of \$500 previously deposited with NASD Regulation, Inc. Office of Dispute Resolution by the Claimant.

Pursuant to §10333 of the NASD Code of Arbitration Procedure, NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable member surcharge in the amount of \$300 previously deposited with NASD Regulation, Inc Office of Dispute Resolution.

The remaining forum fees in the amount \$2,500 shall be paid by the Respondent Prudential Securities, Inc.

Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.

Concurring Arbitrators:

Dated:

/s/ P. Michael Armstrong
P. Michael Armstrong
Public Arbitrator, Presiding Chair

December 19, 1996

/s/ Billy R. Daniel
Billy R. Daniel
Public Arbitrator

December 19, 1996

/s/ Charles T. Dix
Charles T. Dix
Industry Arbitrator

December 18, 1996