

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Margaret M. Cole

96-01733

Name of Respondent

Prudential Securities, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 22, 1996, claimant Margaret M. Cole ("claimant") through her representative, Robert M. Shipman, Esq., a sole practitioner located in Huntsville, Alabama, alleged that respondent Prudential Securities ("respondent"), Inc. through its representative, Charles Eye ("Eye"), permitted funds to be withdrawn from her account without her authorization. Claimant further alleged that in or about September of 1992, Walton Anderson ("Anderson"), induced her to let him call respondent to have money withdrawn from her account by telling her that he was going to withdraw an equal amount from his account. Claimant also alleged that Eye induced her to accept a check in the amount of \$13,000.00 assuring her that half was not taken from Anderson's account as he would lose a considerable sum of money if the commercial paper were liquidated at that time. Claimant contended that Eye removed money from her account without her personally authorizing it and that as a result of the above, she has suffered a loss for which the respondent should be held liable.

Respondent Prudential Securities, Inc. through its representative and in-house counsel, Mark Seffinger, Esq., maintained that claimant's allegations concerning withdrawal of funds from her account are completely misleading and contrary to what she acknowledged when she signed a check requisition for \$13,000.00 on September 18, 1992, paid to the order of Margaret Cole. Respondent further maintained that claimant provided written authorization and picked up the check herself. Respondent also maintained that claimant took more than two years after the transaction to allege any wrongdoing. Respondent contended that claimant received monthly account statements and was well aware of all activity taking place in the account. Respondent further contended that Eye performed the duties owed to the claimant and that as a result of the above, it should not be held liable.

RELIEF REQUESTED

Claimant Margaret M. Cole requested \$6,500.00 in actual damages plus interest and costs.

Respondent Prudential Securities, Inc. requested that the claims be dismissed in their entirety including reimbursement of costs and fees.

OTHER ISSUES CONSIDERED AND DECIDED

The arbitrator considered and reviewed all documentation submitted by the parties concerning respondent's request to have Charles Eye's Central Registration Depository printout precluded from consideration. The arbitrator denied the request.

AWARD

Pursuant to Section 10302 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, James G. Killough, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the claimant on February 20, 1996, and by respondent on June 17, 1996.

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

1. The claims of the claimant Margaret Cole against respondent Prudential Securities are denied in their entirety.
2. The parties shall bear their respective costs and attorneys fees.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.
4. All other relief requests are denied.

AFFIRMATION

I, **James G. Killough, Esq.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: December 9, 1996