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NASD REGULATION, INC.
AWARD

NASD Regulation, Inc.
In the Matter of the Arbitration Between

Name of Claimant
Andrew Sessler

Case Number
96-05813

Name of Respondent
Prudential Securities, Inc.

REPRESENTATION OF PARTIES

For Andrew Sessler ("Claimant") appeared Scott K. Nigro, Esq. a sole practioner located in Long Beach, New York.

For Prudential Securities, Inc. ("Respondent") appeared David D. Hartung, of Prudential Securities, Inc., located in New York, New York.

CASE INFORMATION

Claimant filed the Statement of Claim on December 30, 1996.

Claimant signed the Uniform Submission Agreement on December 17, 1996.

Respondent filed the Statement of Answer on March 31, 1997

Respondent did not sign a Uniform Submission Agreement.

HEARING INFORMATION

Pre-Hearing Conference: January 28, 1998 One Session

Hearing Dates: October 15, 1998 One Session

The hearings were held at NASD Regulation, Inc., Office of Dispute Resolution ("NASD Regulation"), located in New York, New York.

CASE SUMMARY

Claimant commenced this arbitration to recover losses in the amount of \$27,158.00 resulting from alleged misrepresentations made by Respondent's employee, James Gensel ("Gensel"). Specifically, Claimant alleged that he contacted Gensel about gifting or donating Claimant's Gieco shares in order to avoid the potential capital gains tax that would occur as a result of the merger between Gieco and Bershire-Hathaway. Claimant alleged that Gensel advised Claimant that ~~he~~ would have until late January 1996, to transfer (via gift or donation) the stock in order to avoid the capital gains tax on the stock redemption. Claimant asserted that Gensel did not advise him that the record date for the transfer was in late December 1995 and not late January 1996. Claimant maintained that if Gensel had advised Claimant of the proper date than Claimant would have given proper directions in order to minimize the tax consequences of the redemption.

Respondent denied the allegation of wrongdoing set forth in the Statement of Claim. Respondent maintained that Claimant received a copy of the proxy which detailed the merger as well as indicated that the redemption date would be determined on December 20, 1995. According to Respondent, Claimant made his usual 1995 gift and wanted to wait until 1996 to avoid the tax consequence of giving more than a \$10,000 gift to his grandchildren. Respondent contended that Claimant failed to make an alternative plan for additional gifting in 1995. Respondent also maintained that Gensel was not Claimant's tax advisor and that Gensel's sole responsibility was to execute Claimant's written instructions.

RELIEF REQUESTED

Claimant requested:

1. Compensatory damages in the amount of \$27,158.00, plus interest at the legal rate.
2. Arbitration Cost

Respondent requested:

1. That the Statement of Claim be dismissed in its entirety,

OTHER ISSUES CONSIDERED & DECIDED

Respondent did not file with NASD Regulation, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10201 of the NASD Code of

Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

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 original remains on file with NASD Regulation.

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 is responsible to Claimant for compensatory damages in the amount of \$20,000.00, plus interest at 8 percent (%) to accrue from January 2, 1996 to October 15, 1998.

OTHER COST

Pursuant to Rule 10333 of the Code Respondent was assessed a member surcharge in the amount of \$200.00, which has been paid.

FORUM FEES

Pursuant to Rule 10332 of the NASD Code of Arbitration Procedure, the arbitrators have determined that the NASD will retain the \$100.00 tiling fee deposited by the Claimant.

The arbitrators have assessed the following forum fees:

1 Pre-Hearing Conference	x	\$400.00	=	\$400.00
1 Hearing Sessions	x	\$400.00	=	<u>\$400.00</u>
Total Forum Fees				\$800.00

Claimant has been assessed \$400.00 representing one half of the forum fees assessed. Claimant previously deposited \$300.00 with NASD Regulation, therefore, Claimant shall pay to NASD Regulation \$100.00 in satisfaction of outstanding forum fees.

Respondent has been assessed \$400.00 representing one half of the forum fees assessed. Therefore, Respondent shall pay to NASD Regulation \$400.00 in satisfaction of outstanding forum fees.


Fees are payable to NASD Regulation, Inc.

ARBITRATION PANEL

Stephen H. Busch - Public Chairperson
James R. Greene - Public Panelist
Robert M. Flanagan - Industry Panelist

ARBITRATOR'S SIGNATURE

I, Stephen H. Busch, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Stephen H. Busch
Public Chairperson

Date Decision Served by NASD Regulation, Inc.:

November 25, 1998

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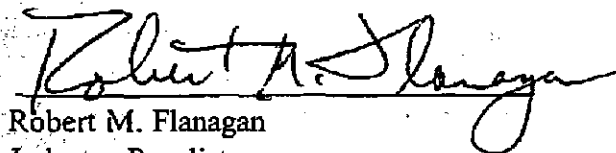
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ARBITRATION PANEL

Stephen H. Busch - Public Chairperson
James R. Greene - Public Panelist
Robert M. Flanagan - Industry Panelist

ARBITRATOR'S SIGNATURE

I, Robert M. Flanagan, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.


Robert M. Flanagan
Industry Panelist

Date Decision Served by NASD Regulation, Inc.:

November 25, 1998

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ARBITRATION PANEL

Stephen H. Busch - Public Chairperson
James R. Greene Public Panelist
Robert M. Flanagan - Industry Panelist

ARBITRATOR'S SIGNATURE

I, James R. Greene, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



James R. Greene
Public Panelist

Date Decision Served by NASD Regulation, Inc.: _____