

**PACIFIC EXCHANGE, INC.**  
115 Sansome Street  
San Francisco, CA 94104

In the Matter Of The Arbitration Between:

<b>Marvin Silver</b>	<b>PCX CASE # 04-L009</b>
<b>Claimant</b>	
<b>v.</b>	<b>Decision</b>
<b>Prudential Equity Group, LLC</b> <b>a/k/a Prudential Securities Incorporated</b> <b>and Daniel Sherkow</b>	
<b>Respondents</b>	

The undersigned Arbitrator, having read and considered the Claim submitted by Claimant and the Answer of Respondents, hereby renders the following Decision pursuant to Rule 12 of the Pacific Exchange:

**REPRESENTATION OF PARTIES**

Of Claimant: Marvin Silver represented himself.

Of Respondents: Charles B. La Chaussee represented both Respondent's.

**SUMMARY OF FACTS**

Claimant Silver asserted that he asked his financial advisor, Respondent Daniel Sherkow, to put him in a risk free product. paying higher interest than his bank and was highly liquid.

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He also asserts that he did not receive a prospectus, as required, prior to buying the fund. After receiving the Eaton Vance prospectus, he discovered that the price fluctuated with the Market and was thus not risk free nor highly liquid. Claimant asserts that he lost \$9,999 when he liquidated his position one year later due to Eaton Vance not being appropriate for him and for Sherkow to earn commissions.

Respondents assert that Claimant Silver was an experienced investor and that he was provided with a preliminary prospectus prior to purchasing. Respondents assert that they complied with claimants instructions and are not responsible for market movements and that the fees were disclosed.

#### **ISSUES PRESENTED**

- Claimant's statement does not clearly identify the legal issues.
- Claimant asserts that he was entitled to a prospectus prior to purchasing, which he did not receive
- Claimant asserts that Eaton Vance was not in accordance with his "risk free" and "highly liquid" instructions.
- Respondents assert that Claimant was a knowledgeable investor.
- Respondents assert that Claimant was provided with a preliminary prospectus and that Eaton Vance was not risky and was liquid.

#### **RELIEF REQUESTED**

Claimant requests \$9,999 in damages. Respondents did not make a counterclaim.

#### **FINDINGS AND DECISION**

A. Findings of fact: After considering the argument and evidence of both the Claimant and Respondent in this matter, the undersigned Arbitrator makes the following findings:

- Claimant failed to meet his burden of proving that he did not receive an acceptable prospectus.
- Claimant failed to meet his burden of proving that he instructed Respondent Sherkow that he wanted a "risk free" and "highly liquid" investment.

- Claimant failed to meet his burden of proving that Eaton Vance was unacceptably risky or not significantly liquid.
- Respondents failed to meet their burden of proving that Claimant was a knowledgeable investor.

B. Decision: After considering the arguments and evidence of both the Claimant and Respondent in this matter, the undersigned Arbitrator makes the final determination and decision of the issues presented, as set forth below:

Plaintiff has failed to prove his case and shall take nothing.

C. Award:

- |                     |   |   |
|---------------------|---|---|
| 1. Monetary damages | - | Ø |
| 2. Punitive damages | - | Ø |
| 3. Costs            | - | Ø |
| 4. Attorney fees    | - | Ø |
| 5. Other            | - | Ø |

D. Other

- |  |     |
|--|-----|
| 1. Respondent shall reimburse Claimant's non-refundable filing fee:  | No  |
| 2. Respondent shall reimburse Claimant's hearing session deposit:  | No  |
| 3. Parties shall bear their own costs of arbitration:  | Yes |
| 4. Should this matter be referred to any regulatory organization (SRO or SEC) for disciplinary investigation of rule violations or violation of federal securities laws? | No  |

E. This decision was rendered based only on the parties written submissions.

Date: 5/16/05

Hassel Hill, Jr.  
Hassel Hill, Jr., Esq.  
Arbitrator