

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Among

Leslie K. Lear - Trustee

Claimant

vs.

Case #90-00020
AWARD

Joseph J. Cavanagh and Prudential-Bache
Securities, Inc.

Respondents

CASE SUMMARY

Claimant, Leslie K. Lear - Trustee ("Lear"), alleged that Respondents, Joseph J. Cavanagh ("Cavanagh") and Prudential-Bache Securities, Inc. ("Pru-Bache"), made fraudulent representations regarding the Prime Plus Realty Partners Investment ("Prime"). Lear further claimed that Cavanagh made several untrue stipulations concerning the Prime investments and failed to send him a prospectus regarding the investment. Claimant also alleged Respondents forged his signature on a form which authorized the purchase of Prime.

Respondents maintained that Claimant's claim must fail as it is beyond the six (6) year time limitation stated in Section 15 of the Code of Arbitration Procedure. Respondents further asserted that Claimant failed to mitigate his damages in that he did not sell the investment. Respondents also averred that the Prime investment was explained fully to Claimant prior to his purchase. Lastly, Respondents stated that Pru-Bache is not a guarantor of a customer's investments.

RELIEF REQUESTED

Claimant, Lear, requested actual damages of \$40,000.00. Respondents, Cavanagh and Pru-Bache, requested dismissal of the Statement of Claim.

AWARD

On September 14, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant, Leslie K. Lear - Trustee, on December 21, 1989 and by the Respondents, Joseph J. Cavanagh and Prudential-Bache Securities, Inc. on May 15, 1990 and September 4, 1990, respectively. The hearing was held in Baltimore, MD at the Hyatt Regency and consisted of two (2) sessions. The

arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents' Motion For Dismissal pursuant to Section 15 of the Code of Arbitration (Statute of Limitations) is denied;
2. Claimant is awarded the sum of Twenty-Three Thousand Dollars (\$23,000.00), on the condition that Claimant assign to Respondents its interest in its holdings in the forty (4) units of Prime Plus Realty Partners investment. Claimant's request for punitive damages is denied;
3. The parties shall each bear their respective costs, including attorneys' fees;
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimant;
5. Respondents are jointly and severally assessed forum fees in the amount of \$800.00 payable to the NASD, Inc. through its staff counsel in accordance with Section 43 of the Code of Arbitration Procedure.

/s/
Charles Bagley, IV

/s/
Sandra Dolan

/s/
Leonard Benade

October 18, 1990