

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Henry Kaye

Claimant

vs.

Prudential Securities, Inc.

Respondent

AWARD

Case #90-01976

CASE SUMMARY

Henry Kaye, represented by A. Grant Bohl, Sarasota, Florida, in a claim filed with the National Association of Securities Dealers, Inc. on July 13, 1990, alleged that Respondent failed to meet the obligations of a fiduciary relationship, did not recommend securities consistent with Claimant's objectives, failed to properly supervise its broker and recommended unsuitable, misrepresented securities.

Respondent, Prudential Securities, Inc. by its counsel James A. Capezzuto, New York, NY maintained that Claimant was fully informed through a prospectus and annual report of the risks associated with the investment in question and that Claimant failed to file a complaint in a timely manner. Respondent states that the fund purchased has been one of the top performers compared to similar funds.

Claimant replied that the Respondent did not timely file their Statement of Answer and still have not filed a Uniform Submission Agreement. Claimant responds to the Counterclaim by stating that this is not a frivolous suit and, though small in amount, Claimant lost money and the arbitration would not exist if Respondent had acted in a professional, prudent and fair manner. Claimant confirms that the order in question was solicited by Respondent and that the agent was not properly supervised.

RELIEF REQUESTED

Claimant requests damages of One Thousand Three Hundred Fifty Seven Dollars and Eighty Two Cents (\$1,357.82) plus return of the NASD filing fee.

Respondent Counterclaims for the costs of defending this suit. However, Respondent failed to pay the fee necessary to submit their Counterclaim.

AWARD

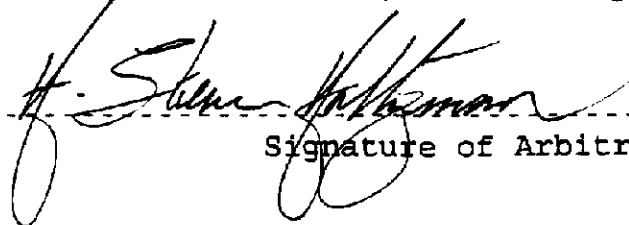
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, H. Steven Holtzman, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on June 27, 1990 and not by the Respondent as required by Section 13(d) of the Code of Arbitration Procedure.

And, that 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 following:

1. That the Respondent, Prudential Securities, Inc., formerly known as Prudential-Bache Securities, Inc., is liable and shall pay to the Claimant, Henry Kaye, the sum of Six Hundred Seventy Eight Dollars and Ninety One Cents (\$678.91).
2. That the Respondent's Counterclaim be, and hereby is, denied and that the record shows that in spite of repeated requests from the NASD, Inc., Respondent failed to file the fee required to assert said Counterclaim.
3. The parties shall bear their respective costs including attorney's fees.
4. The Fifty Dollar (\$50.00) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. and that said fee is assessed against the Respondent who shall pay Fifty Dollars (\$50.00) to the Claimant.

AFFIRMATION

I, H. STEVEN HOLTZMAN, 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

DATED: July 10, 1991