



N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Arbitration

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, New York 10004

In the Matter of the Arbitration Between

Name of Claimant

Edward R. Fleischman

vs.

Case #
91-00384

Name of Respondent

Prudential Securities Inc.

REPRESENTATION

For Claimant: Pro se.

For Respondent: Joel Levinson, Esq. in-house counsel.

CASE INFORMATION

Statement of Claim filed: February 04, 1991.

Amended Statement of Claim dated: April 24, 1991.

Claimant's Submission Agreement signed on: January 29, 1991.

Statement of Answer filed by Respondent, Prudential Securities, Inc., on:
July 02, 1991.

Respondent's Submission Agreement signed on: July 01, 1991.

HEARING INFORMATION

Hearing Date/Hearing Sessions: November 14, 1991 - Two sessions.

Hearing Location: New York, New York.

CASE SUMMARY

Claimant, Edward R. Fleischman, alleges that he advised his Account Executive employed by Respondent, Prudential Securities, Inc., that he wanted a conservative investment with preservation of his capital. Claimant alleges that the Account Executive misled him about the status of Equitec Real Estate Fund XIV because Equitec is bankrupt and is now part of Hallwood Realty

Partners. Claimant further alleges that Respondent failed to supervise. Claimant also contends that account statements he received from Respondent misled him as to the value of his account.

Respondent denies the allegations, denies liability and asserts ten affirmative defenses. Respondent contends that the purchase of Equitec was suitable for Claimant who had a balanced and well-diversified portfolio. Respondent contends that the investment was placed in Equitec No. 14 which had a good track record and that the performance cannot be attributed to Prudential. Respondent alleges that Claimant received a prospectus in advance of the purchase and annual reports after the purchase. Respondent further alleges that the statements reflected his initial investment as \$5,000.00 and did not misstate the value of Claimant's investment.

RELIEF REQUESTED

Claimant requests that this arbitrator reimburse him his \$5,000.00 investment so that it can be reinvested by Respondent into a CD or Treasury consistent with his IRA portfolio.

Respondent requests that the Statement of Claim be dismissed in its entirety and judgment rendered in favor of Respondent.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent moved to dismiss the Claim pursuant to Section 15 of the Code of Arbitration Procedure. Claimant in opposition to the Motion argues that it was not the purchase that gave rise to his claim, but rather the fact that Equitec went bankrupt and that account statements received from Respondent represented the value of his investment at \$5,000.00 while the statement from Hallwood valued his investment at \$808.00. This arbitrator denied the Motion and proceeded with the hearing.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Statement of Claim is denied. The investment in Equitec Real Estate was suitable for Claimant. Claimant received the prospectus and annual reports which outlined the risk. Additionally, the monthly statement clarified that the valuation of \$5,000.00 was for informational purposes only and did not represent the current value of his investment.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed and any fees previously assessed shall be applied to the fees assessed.

1. The NASD has received the \$50.00 non-refundable filing fee received from the Claimant;
2. The NASD has received the \$100.00 hearing session deposit from the Claimant;
3. Claimant is assessed \$50.00 non-refundable filing fee;
4. Respondent is assessed \$200.00 forum fees for two (2) hearing sessions at \$100.00 per session;
5. Respondent shall satisfy this assessment by reimbursing by Claimant \$100.00 and remitting \$100.00 to the NASD.

Fees are payable to the National Association of Securities Dealers, Inc.

Arbitrator's Signature

Seymour P. Kaye, Esq.
Seymour P. Kaye, Esq.

Sole Public Arbitrator

Date of Decision:

DATED BY NASD
NOVEMBER 20, 1991