

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

In the Matter of the Arbitration BetweenName of Claimants

Robert L. Vollmuth as trustee
Vollmuth Corp. Pension Plan & Trust

vs.

Case #
91-01900

Name of Respondents

Prudential Securities Inc
Randall Carbone

REPRESENTATION

For Claimant: Robert L. Vollmuth.

For Respondents: Patricia A. Fitzpatrick, Esq.

CASE INFORMATION

Statement of Claim filed: June 17, 1991.

Claimants' Submission Agreement signed on: May 28, 1991.

Statement of Answer filed by Respondents, Prudential Securities, Inc. and Randall Carbone, on: July 29, 1991.

Respondent, Prudential Securities, Inc., Submission Agreement signed on: August 08, 1991.

Respondent, Randall Carbone's, submitted an undated Submission Agreement.

HEARING INFORMATION

Hearing Date/Session: December 11, 1991 - One session.

Hearing Location: Boston, Massachusetts.

CASE SUMMARY

Claimant alleges that Respondent, Randall Carbone, who is a V.P and Resident Manager of Prudential Securities, recommended that the pension plan purchase

two real estate limited partnerships: VMS LP II for \$25,000.00 and Fogelman Mortgage LP I for \$25,000.00, without full disclosure of the risks, costs or liquidity factors. Claimant also alleges that at the time of the purchase, the trustee was sixty-two years old and that the limited partnerships were unsuitable. Claimant further alleges that the CD was purchased through Respondents and was listed with Hiawatha S & L. Claimant contends that Hiawatha was taken over by another bank and that the CD was transferred into a Money Market Fund without Claimant's knowledge.

Respondents deny each and every allegation contained in the Statement of Claimant and assert a counterclaim for costs associated with defending this claim. Respondents contend that Claimant invested \$5,000.00 not \$10,000.00 in the CD which was redeemed on November 30, 1990 for \$8,578.40. Respondents further allege that Claimant received monthly statements from 1985 to 1990. Respondent further contend that the investment in the limited partnerships was suitable and comprised only thirty-five percent (35%) of Claimant's portfolio. Respondent contends that Claimant was handed copies of the prospectuses for both investments. Respondents argue that Claimant was a sophisticated businessman who owned a real estate brokerage company and understood the real estate limited partnerships he invested in. Respondents contend that the claim is time-barred under Lampf, Pleva, Lipkind, Prupis & Petigrow vs. Gilbertson, No. 90-333 (U.S. June 20, 1991).

RELIEF REQUESTED

Claimants request and award of \$12,500 plus five percent (5%) interest for one year on the VMS loss, the original investment in Fogelman of \$25,000 , and \$1,405.00 for the loss sustained on the CD.

Respondents request that the Panel deny the claim in its entirety and assess all costs against the Claimant.

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. All claims asserted by the Claimant is denied in their entirety;
2. Respondents' claim for costs associated with the defense of this claim is denied.

FORUM FEES

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

fees assessed.

1. Claimant has paid and is assessed \$120.00 in non-refundable filing fee;
2. The NASD has received \$400.00 hearing session deposit previously paid by the Claimant;
3. Claimant and Respondent, Prudential Securities, Inc., are equally assessed \$400.00 in forum fees;
4. Respondent, Prudential shall satisfy this assessment by reimbursing Claimant \$200.00.

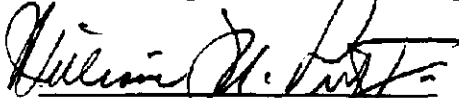
1 sessions X \$400 = \$400 minus hearing session deposit of 400 = \$0.

ARBITRATION PANEL

William M. Prifti, Esq.

Chairperson/Public

Concurring Arbitrator's Signature



William M. Prifti, Esq.
Chairperson - Public

Date of Decision: December 31, 1991

fees assessed.

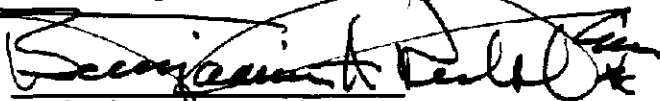
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William M. Prifti, Esq.	-	Chairperson/Public
William F. Glaser, Jr.	-	Public
Benjamin H. Rutstein, II	-	Industry

Concurring Arbitrator's Signature



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