

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between	:	
	:	
Kathleen A. & Maureen A. Ferguson	:	
	:	
Claimant	:	CASE #92-00986
	:	AWARD
	:	
vs.	:	
	:	
	:	
James Minella	:	
	:	
Respondent	:	

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 20, 1992, Claimant Kathleen A. & Maureen A. Ferguson who appeared Pro Se, alleged that on November 6, 1989 they entered the Prudential Bache High Yield Fund and the Municipal Bond Fund of NJ with the assistance of Respondent, James Minella, special agent and registered representative at Prudential-Bache Securities, Inc. Claimants further alleged that they emphasized to Respondent that they needed secure and accessible avenues in which to invest their money, whereby they chose the High Yield Fund as an IRA and the Municipal Bond Fund because Respondent had described them as "conservative investments." Claimant contended that Respondent said they would never lose any principal and they could borrow money from the Municipal Bond Fund at 3% interest. Claimants further contended that they were later told the current lending rate on investment would be approximately 11%, in addition, when Anita Berrta, registered representative and Melanie Pelak, Account Executive at Prudential reviewed Claimants' portfolio, they found the investments were not suited for Claimants' needs and reflected that Respondent made misrepresentations to them. Claimants asserted that they tried to sell their investment in order to diminish their losses, but were informed that a "halt" had been placed on the back end load charges due to the transfer of Claimants funds into a money market account. Claimants further asserted that Respondent told them they could transfer into an Prudential Bache account and the percentage of the back end load charge on the principal would decrease, but Respondent never mentioned the clock stopping upon such transactions. Claimants argued that Respondent had an obligation to inform Claimants of the effect this would have on their money if they left their money in a money market for any length of time. Claimants further argued that due to Respondent's misrepresentations they suffered a loss of funds in their account.

Respondent James Minella failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimants, Kathleen A. & Maureen A. Ferguson requested \$630.00 in actual damages and reduction of present back end load charges 5% to 3% of \$34,300.00.

Respondent James Minella failed to file an Answer to the Statement of Claim.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Milton M. Levin, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on February 14, 1992 and not by the Respondent as required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

1. In accordance with Section 13 of the NASD Code of Arbitration Procedure the Respondent James Minella was served by regular mail on April 21, 1992 and given an opportunity to respond, which he failed to do so. Although reasonable attempts were made to serve Respondent James Minella with the Statement of Claim, service was not effected upon Respondent as evidenced by packages returned "attempted not known".
2. Pursuant to the By-Laws of the NASD the arbitrator determined that Respondent James Minella was required to submit to this arbitration proceeding.

And, 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 follows:

1. The claim of Claimants Kathleen A. & Maureen A. Ferguson against Respondent James Minella is dismissed without prejudice.
2. The parties shall bear their respective costs.
3. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Kathleen A. & Maureen A. Ferguson shall be retained by the NASD, Inc.

STATE OF: New York

COUNTY OF: New York

SS:

On this 6th day of November 19 92, before me personally appeared Milton M. Levin to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

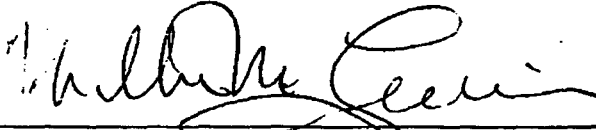
Mark O. Glut

MARK O. GLUT
Notary Public, State of New York
No. 4885183
Qualified in Queens Court
Commission Expires April 30, 1994

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Award #92-00986

AFFIRMATION

I, **MILTON M. LEVIN**, to 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

Date of Decision: ~~November~~ 13, 1992