

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Eugene Koalkin

92-02715

Name of Respondents

Prudential Securities Inc.
Selig Ratchick

REPRESENTATION

For Claimant Eugene Koalkin ("Claimant"): David Hirschberg, Esq., of Wexler & Burkhart, P.C.

For Respondents Prudential Securities, Inc. ("PSI") and Selig Ratchick ("Ratchick"): Joseph D'Elia, Esq., of the Law Offices of Joseph D'Elia.

CASE INFORMATION

Statement of Claim filed: August 13, 1992.

Claimant's Submission Agreement signed on: August 6, 1992.

Joint Statement of Answer filed by Respondents on: October 20, 1992.

Respondent PSI's Submission Agreement signed on: September 21, 1992.

Respondent Ratchick's Submission Agreement signed on: September 23, 1992.

HEARING INFORMATION

Pre-Hearing Conferences:

April 30, 1993/1 arbitrator/1 session

May 3, 1993/1 arbitrator/1 session

Hearing Dates/Sessions:

May 5, 1993/3 arbitrators/2 sessions

May 6, 1993/3 arbitrators/2 sessions

July 14, 1993/3 arbitrators/2 sessions

July 21, 1993/3 arbitrators/2 sessions

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Hearing Location:

NASD, New York, NY

CASE SUMMARY

Claimant alleged that in accordance with PSI's marketing strategy, Ratchick solicited him to purchase interests in two of the limited partnerships: Prudential Bache Energy Income Fund Series V P19 and Prudential Bache Energy Income Fund Series VI P23. Claimant alleged Ratchick told him these partnerships were safe, conservative high-yield investments, suitable for investors such as Claimant, who were seeking a steady and reliable source of income. Claimant alleged Ratchick knew or should have known at the time he made this representation as to the safety and lack of risk that said representation was misleading and false. Also, Claimant alleged PSI's sales materials ignored or minimized the extent of risk and that it did not send prospectuses to customers until after they had purchased the units.

Claimant alleged PSI knew Ratchick was soliciting customers for the partnerships by mis-characterizing the nature of the investment and was encouraging the brokers to sell them in preference to all other types of investments because PSI's profit on these partnerships was higher. Claimant further alleged PSI misled its own financial consultants about the degree of risk involved by marketing the products as safe investments.

Also, Claimant alleged Ratchick falsely represented that the partnerships were liquid; however, when Claimant attempted to sell them, he was advised by PSI that it would not create a market for the partnerships and that he could only sell them through secondary market makers, where he was told the units were practically worthless. Claimant alleged Respondents knew or should have known there was no active public trading market for the partnerships and that it was unlikely one would develop.

Claimant further alleged Respondents also had an obligation to fully disclose conflicts of interest of Graham Resources, Inc. the entity which, together with PSI, was co-managing general partner of the limited partnership and the conflicts of interest involving the other co-manager, Pru-Bache. Claimant also alleged Respondents failed to disclose the fact that they received a commission of eight (8%) percent more on the limited partnership sales to Claimant and that PSI also received high underwriting fees, which made the prospective operating profits unlikely.

Claimant also alleged PSI acted fraudulently to mislead him as to the limited partnership's true value in its monthly and/or quarterly brokerage account

statements.

Claimant then alleged Ratchick recommend he purchase AT&E Corp. ("AT&E") in his IRA account. Claimant alleged Ratchick was aware or should have been aware that this investment carried a high degree of risk and was suitable only for high risk accounts. Claimant alleged that less than two (2) years later, AT&E filed a Chapter 11 Bankruptcy petition and Claimant lost his entire investment. Claimant alleged the investment in a speculative, high-risk stock was unsuitable for him. Claimant alleged Ratchick's recommendation to purchase AT&E for his IRA breached the NASD suitability rule and that Ratchick's branch manager took no effort to determine from Claimant whether Ratchick had fully disclosed the risks of said investment. Claimant further alleged that Ratchick's failure to disclose to Claimant the degree of risk involved and the difficulties encountered by the company following Claimant's purchase of stock constituted fraud and deceit. Further, Claimant alleged Respondents were negligent in recommending repeated purchase of this stock and in failing to monitor or advise him of the stock and adverse developments in the company. Claimant alleged Respondents breached their fiduciary duty to him by recommending the speculative purchase; failed to "know their customer"; and that PSI failed to supervise Ratchick.

Respondents alleged Claimant's claims regarding the limited partnerships were time-barred due to the fact that he failed to complain within two (2) years of when the alleged fraud or misrepresentation occurred. Respondents maintained that all of the alleged risks to which the limited partnerships were subject, were disclosed in the prospectuses which Claimant failed, in a timely manner, to reject or reverse his decision to invest in same.

Respondents contended that in light of the disclosures in the prospectuses, Claimant knew or should have known that in absence of a liquid market, the established custom in the securities industry was to carry the original purchase value of a partnership on an account statement.

Respondents asserted that if Claimant suffered a loss, which they denied, such loss was to be offset by the partnership's current asset value and aggregate distributions, and should have been attributed to Claimant's investment decisions made after disclosure of the risks.

Further, Respondents contended Claimant was aware at the time he purchased AT&E that it was a developmental-stage company and that he was willing to invest venture capital as he had on previous occasions. Also, Respondents asserted Claimant was aware of should have been aware of the speculative nature

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of the investment; and requested and received all available literature on AT&E before and during his investments. Respondents maintained they had no involvement in the decision made by Claimant to purchase AT&E in his IRA account. Finally, PSI alleged it did not represent the financial condition of AT&E was other than that which could be discerned from its prospectuses.

RELIEF REQUESTED

Claimant requested: actual damages in the amount of \$300,000.00; costs; attorneys' fees and punitive damages.

Respondents requested: the arbitrators find in favor of Respondents.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

Respondents' Joint Motion to Dismiss based on the Statute of Limitations is denied.

AWARD

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

1. The claims of Claimant Eugene Koalkin are denied;
2. The claim of Claimant Eugene Koalkin for punitive damages is denied;
3. All other claims are denied;
4. Each party shall bear its own expenses, including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$200.00 non-refundable filing fee previously paid to the NASD and the following Forum Fees are assessed.

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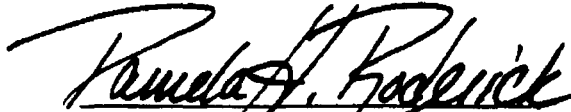
2 pre-hearing conference sessions X \$300.00 = net \$600.00 due.
8 sessions X \$750.00 = \$6,000.00 minus hearing session deposit of \$750.00 =
net \$5,250.00 due.

Forum fees Assessed Against:

1. Claimant Eugene Koalkin is hereby liable in the amount of \$3,300.00; however, the NASD shall retain Claimant's hearing session deposit. Therefore, the amount due and owing to the NASD equals \$2,550.00.
2. Respondent Prudential Securities, Inc. is hereby liable and shall pay to the NASD the sum of \$3,300.00.

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

Arbitrator Signature


Pamela H. Roderick/Public Arbitrator

Date of Decision: August 4, 1993

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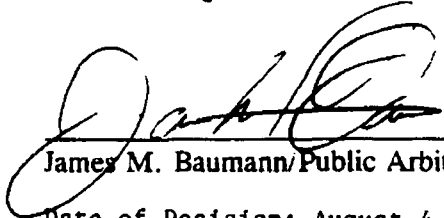
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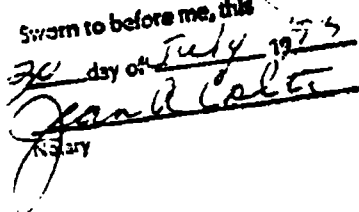
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Fees are payable to the National Association of Securities Dealers, Inc.

Arbitrator Signature


James M. Baumann/Public Arbitrator

Date of Decision: August 4, 1993

Sworn to before me, this
30 day of July 1993

Notary

JEAN A. COLETTI
Notary Public, State of New York
No. 046940046
Qualified in Bronx County
Commission Expires 11-30-93

STATE OF

NY

COUNTY OF

Kings

On this *7* day of *Aug*, 1993, before me personally appeared Pamela H. Roderick known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that she/he executed the same.

RAYMOND MARDINEY
Notary Public, State of New York
No. 24-25800 Qual. in Kings Co.
Commission Expires March 30, 1995

Raymond Mardiney

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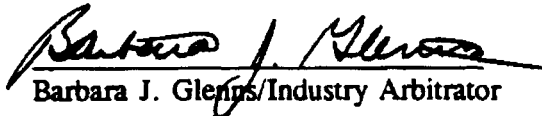
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Fees are payable to the National Association of Securities Dealers, Inc.

Arbitrator Signature


Barbara J. Glens/Industry Arbitrator

Date of Decision: August 4, 1993

STATE OF New York

COUNTY OF New York

On this 30th day of July, 1993, before me personally appeared Barbara J. Glens known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that she/he executed the same.

Norman A. Bloch

NORMAN A. BLOCH
Notary Public, State of New York
No. 03-4954343
Qualified in Bronx County
Commission Expires Aug. 7, 1998