

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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PLANTATION

In the Matter of the Arbitration Between

Name of Claimant(s)

Edwin R. Ruskin

93-01575

Name of Respondent(s)

Prudential Securities Inc  
Linda Ryan

REPRESENTATION

For Claimant, Dr. Edwin R. Ruskin ("Ruskin"):  
Charles D. Franken, Esq. of Charles D. Franken P.A. in Plantation, FL.

For Respondent, Prudential-Bache Securities Inc. ("Prudential"):  
Joseph C. Coates, III, Esq. and Bradford D. Kaufman, Esq. of Steel, Hector &  
Davis in West Palm Beach, FL.

For Respondent, Linda Ryan ("Ryan"):  
Barton S. Sacher, Esq. of Hornsby, Sacher, Zelman & Stranton in Miami, FL.

CASE INFORMATION

Statement of Claim filed: April 13, 1993.

Claimant's Submission Agreement signed: April 8, 1993.

Respondent, Prudential, Statement of Answer filed: September 30, 1994.

Respondent, Ryan, Statement of Answer filed: December 2, 1994.

Respondents, Prudential and Ryan, did not sign Submission Agreements as required by Section 12 and 25 of the Code.

### HEARING INFORMATION

On January 27, 1995 and June 5, 1995, in Ft. Lauderdale, Florida, Pre-hearing Conferences lasting two (2) sessions were conducted via telephone conference call with an arbitrator.

On October 30 & 31, 1995 and November 1 & 2, 1995, in Ft. Lauderdale, Florida, hearings lasting eight (8) sessions were conducted.

### CASE SUMMARY

Claimant alleged that Respondents solicited and sold to Claimant a \$100,000 limited partnership investment; that neither Ryan nor any other representative of Prudential ever advised the Claimant that this limited partnership investment was not an approved transaction of Prudential; that Ryan never informed Claimant that she was not acting as an agent of Prudential in recommending and selling this investment; that, in order to induce Claimant to purchase this limited partnership, Prudential, through Ryan, stated that this limited partnership was suitable for IRA's, pension plans, and investors seeking long term growth and income and that this limited partnership had a six year history of profitability; and, that the partnership investments had been profitable and that they themselves held this limited partnership as well as other of their Prudential customers.

Respondent, Prudential, denied all allegations of wrongdoing and alleged that Prudential had no connection with this limited partnership; that it was never sponsored by Prudential; that Prudential brokers were not authorized to sell it; that Prudential derived absolutely no income or benefit from any sale of it; that Claimant's investment in this limited partnership was not purchased for, through, or by any Prudential account maintained by Claimant; that, to the extent, if any, that Robert Sterling or Ryan solicited this investment, they were acting for their personal gain, completely contrary to Prudential's interest and directly contrary to Prudential policy; that Prudential had in place and in effect compliance and supervisory procedures designed to prevent and detect selling away; that, because this investment took place wholly outside of Prudential, this transaction was effectively hidden from Prudential management; and, that this investment did not appear on the Prudential account statement.

Respondent, Ryan, denied all allegations of wrongdoing and alleged that she never recommended, solicited or sold this limited partnership to Claimant; and, that she denies each and every allegation wherein Claimant attempts to connect her with his decision to invest in this limited partnership.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of \$100,000.00, according to proof, punitive damages, prejudgment interest, costs, expert fees, attorney fees, and other relief as deemed proper.

Respondents requested that the claim be dismissed in its entirety.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondents, Prudential and Ryan, submitted a Motion to Dismiss and/or for Entry of a Directed Verdict. As there is no provision in the Code of Arbitration Procedure for the imposition of a Directed Verdict the Panel has treated the above mentioned motion as a Motion to Dismiss. The Panel reserved ruling on said Motion until the Claimant had the full opportunity to present proof of his claim.

### **AWARD**

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

- (1) Respondents', Prudential and Ryan's, Motion to Dismiss is hereby granted; they are found not liable and, therefore, all claims against them are hereby dismissed.
- (2) Claimant's requests for punitive damages, interest, attorney's fees, expert fees, costs, and expenses are denied.

### **OTHER COSTS**

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorney's fees.

### **FORUM FEES**

- (1) Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$6,600.00 (two (2) pre-hearing conferences x \$300.00 plus eight (8) sessions x \$750.00).

(2) Claimant is hereby assessed \$6,600.00 for which the NASD shall retain the \$750.00 previously deposited in partial satisfaction thereof, leaving a balance due of \$5,850.00 which is payable to the National Association of Securities Dealers, Inc.

(3) The NASD shall retain the non-refundable filing fee of \$200.00 paid by the Claimant.

~~(4) Respondent, Prudential, shall pay the \$200.00 Section 45 Surcharge previously assessed.~~

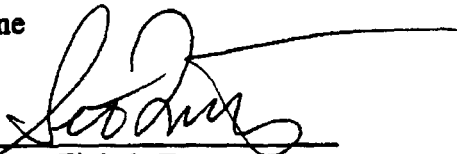
Fees are payable to the National Association of Securities Dealers, Inc.

*L.H.K.*

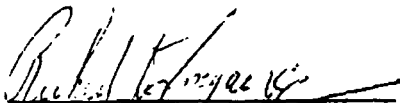
**Concurring Arbitrators' Signatures**

Name

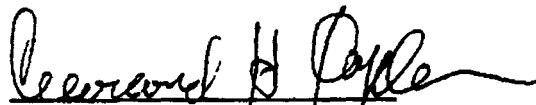
Public/Industry

  
Seth L. Finkel, Esq.

Public

  
Richard D. Longacre

Industry

  
Leonard H. Kaplan, Esq.

Public

Date of Decision: January 8, 1996