

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Sidney Jacoby

93-01900

Name of Respondents

Prudential Securities, Inc.
George E. Anderson, III

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 12, 1993, Claimant Sidney Jacoby, through his counsel Edward W. Russey, III, Esq., alleged that Respondent George Anderson, III, through the Respondent firm Prudential Securities, Inc. made unsuitable recommendations and misled him into purchasing securities such as Pru-Bache Government Securities, VMS Hotel Investment Trust and First Executive PFD "E" stock, which were not only unsuitable, but also did not meet his investment objectives to maintain all of his funds in his account with minimal risk. The Claimant further alleged that he has sustained damages due to the Respondents' fraud, misrepresentations, breach of contract and breach of fiduciary duties owed to the Claimant, and further that the Respondents gave him false and misleading information; therefore, due to the wrongdoing of the Respondents, they should be held liable for the damages he has suffered.

Respondents Prudential Securities, Inc. and George E. Anderson, III, through their in-house counsel, John N. Camperlengo, Esq., maintained that although the Statement of Claim includes other investments, the only one subject to this action is First Executive PFD "E" stock, and that the Claimant fails to delineate how this security was unsuitable or how it was misrepresented to him. The Respondents further maintained that the investments' performance was based on market conditions, not any action or inaction by the Respondents, and that Respondent George E. Anderson, III researched the investment, presented the risks to the Claimant and the Claimant voluntarily decided to purchase the investment as one which would provide income. Respondents Prudential Securities, Inc. and George E. Anderson, III contended that although it is unfortunate that the Claimant has suffered a loss while investing, most are attributable to investments that are not subject to this case, and therefore, they should not be held liable in this action.

RELIEF REQUESTED

Claimant Sidney Jacoby requested rescission of his investments in First Executive PFD "E" stock, plus \$5,112.88 in actual damages, along with interest, costs, attorney's fees and unspecified punitive damages.

Respondents Prudential Securities, Inc. and George E. Anderson, III requested that the claims of the Claimant be dismissed.

AWARD


Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Paul F. Roquet, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on April 29, 1993 but not by Respondents Prudential Securities, Inc. and George E. Anderson, III as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

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. Respondents Prudential Securities, Inc. and George E. Anderson, III are jointly and severally liable and shall pay to the Claimant Sidney Jacoby \$5,112.88 in actual damages.
2. The Claimant's request for rescission of the investment is denied.
3. The Claimant's request for punitive damages is denied.
4. Respondents Prudential Securities, Inc. and George E. Anderson, III are jointly and severally liable and shall pay to the Claimant Sidney Jacoby simple interest at the legal statutory rate for the State of Florida from January 1, 1990 to the date of payment of the award.
5. The parties shall bear their respective costs.
6. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondents Prudential Securities, Inc. and George E. Anderson, III are jointly and severally liable and shall pay to the Claimant \$150.00 as reimbursement of the filing fee.

AFFIRMATION

I, **PAUL F. ROQUET**, do 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: December 8, 1993