

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Peter and Kiyomi Van Asperen

94-02220

Name of Respondent(s)

**Kim Nazarek
Dan Stockemer**

REPRESENTATION

For Claimants: Peter Van Asperen, Santa Rosa, California

**For Respondents: Colleen C. Hammer, Esq., Ed Zusman, Esq., Zelle and Larson, for Respondent
Kim Nazarek**

Respondent Dan Stockemer represented himself.

CASE INFORMATION

Statement of Claim filed: June 14, 1994

Claimant's Submission Agreement signed on: June 7, 1994

Statement of Answer filed by Respondents:

**Dan Stockemer on August 27, 1994
Kim Nazarek on September 14, 1994**

Submission Agreement signed by Respondents:

**Dan Stockemer on August 25, 1994
Kim Nazarek on September 14, 1994**

HEARING INFORMATION

**Hearing Date(s)/Sessions: March 9, 1994 - 2 sessions
March 10, 1994 - 2 sessions**

Hearing Location: San Francisco, California

CASE SUMMARY

Claimants alleged that they closed their account with Prudential Mutual Fund Services and invested \$30,000 in the Rancon Development Fund VII LP on the basis of Respondents' misrepresentations that this investment was a very safe, low risk investment, and Respondents' knowledge that these funds represented Claimants' retirement funds. Claimants allege that this investment was, in fact, a high risk investment, and, as a result of Respondents' misrepresentations, Claimants lost \$30,000 of retirement funds in an unsuitable investment.

Respondents deny all claims, and Respondent Kim Nazarek alleged the following eleven affirmative defenses: statute of limitations; Claimants' damages were caused due to the acts or omissions of others; ratification; comparative negligence; waiver, laches; unclean hands; assumption of risk; Claimants' failure to exercise their duty of due diligence; Claimants' failure to plead punitive damages with sufficient specificity; Claimants are precluded from relief by the terms of the subscription agreement, and the representations and warranties made in the prospectuses.

RELIEF REQUESTED

Claimants requested damages of \$42,092.59, plus emotional distress damages, punitive damages and costs of arbitration.

Respondents requested dismissal of all claims.

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.

At the first hearing session respondent Kim Nazarek moved to dismiss the claim based on Claimants' failure to comply with the prehearing exchange required by Section 32(c) of the NASD Code of Arbitration Procedure.

Following oral argument on the motion, the panel denied the motion and proceeded to take evidence.

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. All claims asserted by Claimants are dismissed in their entirety.
2. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

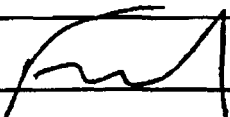
Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fee(s) are assessed:

Total Fees:	
4 hearing sessions @ \$500 per session:	\$2,000
Respondent Nazarek's Share:	\$667.00
Respondent Stockemer's Share:	\$667.00
Claimants are assessed:	\$666.00
<u>Credit for deposit:</u>	<u>\$500.00</u>
Balance Due:	\$166.00

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

Concurring Arbitrators' Signatures

<u>Name</u>	<u>Public/Industry</u>
Robert L. Liu	Public Chairperson
David L. Ratner	Public Panelist
Frank Weaver	Industry Panelist



Date Served 04/18/95