

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

William C. Hulett

and

NASD Case Number 95-00726

Name of Respondent

Pruco Securities Corporation

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about February 13, 1995, William C. Hulett ("Hulett") who appeared Pro Se alleged that Pruco Securities Corporation ("Pruco") improperly purchased for him a variable appreciable life ("VAL") insurance contract. Claimant asserted that he gave instructions on August 9, 1989 to a Prudential insurance agent, Frank Fusco ("Fusco"), to write a whole life insurance policy with fixed premiums of no more than \$340.00 a month, fixed benefits and an effective date of September 1, 1989. The Claimant complained that the policy was a VAL contract, not a whole life contract, with an effective date of August 1, 1989 and a variable rate. According to the Claimant, Fusco provided him with a prospectus yet did not discuss the details or the risks of the investment with Claimant. Hulett alleged Fusco lied to him when stating that Claimant had enough dividends in a paid policy to cover the premiums for the VAL policy until December 1, 1989. As alleged, in order to pay the premiums, Claimant obtained a loan from Prudential on or about November 3, 1989 although Fusco, not the Claimant, signed the application and the loan check. Hulett made specific allegations against the Respondent, including, but not limited to, securities fraud, misrepresentation, failure to disclose and various violations of SEC regulations.

In its answer, Pruco Insurance Corporation denied all allegations of wrongdoing claiming that the signed application stated the effective date was August 1, 1989, that Hulett received whole life insurance coverage with minimum fixed benefits and premiums, that the Claimant's net premiums were invested in the Fixed Rate Account and that the loan documentation was proper and complete. Pruco asserted many affirmative defenses including, but not limited to, failure to state a claim upon which relief may be granted, Hulett was afforded the opportunity to understand the nature of the contract, Hulett properly executed documentation in connection with the application of dividends

and cash values earned in another policy to pay premiums for the VAL policy, the purchase of the VAL was suitable and the Respondent acted in good faith and reasonably in accordance with industry standards.

RELIEF REQUESTED

Claimant, William C. Hulett requested an award in the amount of \$18,126.54 in actual damages as well as three times that amount in punitive damages.

Respondent, Pruco Securities Corporation requested that the claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

In the Statement of Claim and in an amendment to the Statement of Claim dated June 22, 1995 submitted by the Claimant, William C. Hulett waived the right to a hearing in this matter and requested that the case proceed under Section of the NASD Code of Arbitration Procedure, Simplified Arbitration. Respondent, Pruco Securities Corporation waived their right to a hearing in a letter dated June 21, 1995.

On or about July 3, 1995, Pruco Securities Corporation submitted a motion to decline jurisdiction pursuant to Section 12(b) of the NASD Code of Arbitration Procedure or to dismiss for failure to state a claim.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, John P. Miller, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on February 10, 1995 and by the Respondent, Pruco Securities Corporation on March 6, 1995.

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 Statement of Claim filed by William C. Hulett is hereby dismissed and denied in its entirety;
2. The parties shall bear their own costs of arbitration including attorneys' fees except for those specifically enumerated herein; and
3. Any relief requested not specifically granted herein is hereby denied in its entirety.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$75.00 and shall retain as forum fees the hearing session deposit in the amount of \$75.00 previously deposited with the NASD by the Claimant.

Pursuant to Section 45 of the Code, the NASD shall retain the surcharge in the amount of \$200.00 previously deposited with the NASD by Respondent, Pruco Securities Corporation.

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

AFFIRMATION

I, John P. Miller, Esq., 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.

John P. Miller, Esq. / January 4, 1996
Signature of Arbitrator and Date Signed

Date served by the NASD: January 5, 1996

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TO

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Pursuant to Section 45 of the Code, the NASD shall retain the surcharge in the amount of \$200.00 previously deposited with the NASD by Respondent, Pruco Securities Corporation.

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

AFFIRMATION

I, John P. Miller, Esq., 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 and Date Signed

Date served by the NASD: _____