

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Barbara Miller

95-01081

Name of Respondent

Prudential Securities Inc

REPRESENTATION

Claimant Barbara Miller ("Claimant") appeared pro se

Respondent Prudential Securities, Inc. ("Respondent") was represented by David B. Gorfinkel, Assistant General Counsel, Prudential Securities, Inc., New York, NY

CASE INFORMATION

The Statement of Claim was filed on March 2, 1995
Claimant's Submission Agreement was signed February 27, 1995

The Statement of Answer was filed June 8, 1995
Respondent did not execute a Uniform Submission Agreement

HEARING INFORMATION

Prehearing Date/Sessions: January 29, 1996/one session

Hearing Date/Sessions: January 31, 1996/one session

Hearing Location: NASD District Office
Philadelphia, PA

CASE SUMMARY

Claimant alleged, among other things, that Respondent induced Claimant to purchase unsuitable investments. Claimant alleged that Respondent misrepresented the safety of the Prudential-Bache High Yield Fund ("HYF"). Claimant alleged that Respondent omitted informing Claimant that the HYF were "junk bonds". Claimant alleged that Respondent had been told that Claimant did not want any "junk bonds". Claimant alleged that Respondent had been informed that Claimant's investment strategy was income and security of capital. Claimant alleged that when she asked

Respondent about losses on monthly account statements, Respondent persuaded Claimant that the losses were merely "paper losses". Claimant alleged that Respondent falsely reassured Claimant that there was no need for concern regarding Claimant's investment capital. Claimant alleged that research indicated that it was well understood in the industry that an investment in HYF would be unsuitable for a client with Claimant's investment goals. Claimant alleged that the damages she suffered, including injury to her health, were due to the actions of Respondent.

Respondent categorically denied any allegations of wrong doing. Respondent maintained Claimant first opened an account with Respondent in May, 1985 and actively traded for about six months. Respondent maintained Claimant did indicate on her new account form that Claimant's goal was income and safety of her investment principal. Respondent maintained that Claimant stated in August 1987 that Claimant's revised goal was \$1,200.00 income from her investments. Respondent maintained that registered representative Don Barlow ("Barlow") informed Claimant that such income could only be obtained through riskier income producing securities. Respondent maintained that although Barlow developed a portfolio proposal for Claimant with diversification of risk and return, Claimant chose to place the portfolio in a higher risk international bond fund. Respondent maintained that Claimant liquidated her international bond fund in March, 1989. Respondent maintained that Claimant wanted the same amount of income though with a fifty percent decrease in Claimant's investment portfolio. Respondent maintained that Barlow informed Claimant that the trade off for higher income was a corresponding higher risk. Respondent maintained that Claimant assumed the risk and authorized purchase of HYF. Respondent maintained that any loss suffered by Claimant was a result of normal market fluctuations and Claimant's own actions.

RELIEF REQUESTED

Claimant requested \$15,000.00 in actual damages and \$150,000.00 in compensatory damages.

Respondent requested that the Statement of Claim be dismissed in its entirety and all costs attributable to this arbitration be assessed to Claimant.

OTHER ISSUES CONSIDERED & DECIDED

The panel determined that Respondent did not file with the NASD a properly executed submission to arbitration, but is required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure.

AWARD

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

1. The Statement of Claim is denied in its entirety.
2. Each party shall bear their own costs and expenses.
3. Any relief not specifically provided for herein is denied.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed.

1 prehearing session x \$300.00 = \$300.00

1 hearing session x \$750.00 = \$750.00

Forum Fees assessed equally against Claimant and Respondent. Therefore, Claimant is assessed \$525.00 in forum fees and Respondent is assessed \$525.00 in forum fees.

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

DATE

CONCURRING ARBITRATORS' SIGNATURES

2/7/96



Joseph R. Lally, Presiding
Public Arbitrator

Edward M. Miller, Ph.D
Public Arbitrator

Ronald C. Zimmerman
Industry Arbitrator

Date Decision Served by NASD:

February 12, 1996

AWARD

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

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