

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Ottilie Myhre

95-03370

Name of Respondents

Prudential Securities, Inc.  
Pruco Securities Corporation  
Cecil G. McGavern  
Jim Ludwick

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 14, 1995 Claimant Ottilie Myhre ("Claimant"), who appeared Pro Se, alleged that Respondents Prudential Securities Inc., and Pruco Securities, through their account executives Respondents Cecil G. McGavern and Jim Ludwick ("Ludwick"), recommended an unsuitable investment, Quantum Program, which was not in accordance with her investment objectives of receiving good monthly income with safety. Claimant further alleged that Ludwick liquidated most of her Fixed Income High Yield Fund and that she was unaware that it had a deferred sales charge of \$1,472.47. Claimant contended that Ludwick failed to inform her of the volatility and the risks associated with the Quantum Program, and that as a result of the above, she has suffered a loss for which Respondents should be liable.

Respondents Prudential Securities Inc., Pruco Securities Corporation, Cecil G. McGavern and Jim Ludwick ("Respondents") through their representative and in-house counsel, James O'Leary, Esq. maintained that Quantum was a suitable investment for Claimant's stated investment objectives. Respondents further maintained that Claimant failed to follow their recommendation that the Quantum Program was a long term investment that would provide income and growth. Respondents contended that Claimant was informed of the Fixed High Yield fund's deferred sales charge, as well as provided her with a prospectus that clearly spelled out the charge. Respondents asserted that at no time did the Claimant ever inform Respondent McGavern that there was a problem with her account. Respondents contended that they committed no wrongdoing, and therefore should not be held liable in the matter.

## RELIEF REQUESTED

Claimant Ottilie Myhre, requested \$9,317.35 in actual damages.

Respondents Prudential Securities Inc., Pruco Securities Corporation, Cecil G. McGavern and Jim Ludwick, requested that the claims of the Claimant be dismissed.

## AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Albert R. Neville, Jr., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Ottilie Myhre on June 30, 1995 and by the Respondent Prudential Securities Inc., on September 25, 1995, and by Respondent Pruco Securities Corporation on September 22, 1995, and by Respondent Cecil G. McGavern on September 20, 1995. Respondent Jim Ludwick did not submit an Uniform Submission Agreement as required by Sections 12 and 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., Pruco Securities Corporation, Cecil G. McGavern and Jim Ludwick are jointly and severally liable and shall pay to the Claimant Ottilie Myhre, \$1,472.47 in actual damages.
2. The parties shall bear their respective costs.
3. 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., Pruco Securities Corporation, Cecil G. McGavern and Jim Ludwick are jointly and severally liable and shall pay to the Claimant Ottilie Myhre, \$150.00 as reimbursement of the filing fee.