

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

George M. Garnic

95-04979

Name of Respondent

Prudential Securities, Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 17, 1995, Claimant George M. Garnic ("Claimant"), who appeared Pro Se, alleged that Respondent Prudential Securities, Inc. ("Respondent") recommended and sold to him 10 units of Jones Cable TV Fund #15 Limited Partnership (the "Fund") to his detriment. Claimant further alleged that in 1989 he filled out a lengthy investment profile, provided by Respondent, which showed that his investment objectives should be provide income and moderate growth. Claimant contended that he was not provided with a prospectus or any other information but was told that the Fund would provide a boost in capital in about 5 to 7 years and that similar limited partnerships had profited substantially. Claimant further contended that his account was assigned to several account executives in a relatively short time period because Respondent's employees were leaving their jobs. Claimant maintained that this activity caused him concern so he moved his account to Smith Barney Shearson. Claimant further maintained that as a result of the above, he has suffered a loss for which the Respondent should be held liable.

Respondent Prudential Securities, Inc., through its representative and in-house counsel, Patricia Ostuni, Esq., maintained that on or about March 27, 1987, Claimant opened an account at its Erie, Pennsylvania office. Respondent further maintained that investment profile information was gathered and he sought tax sheltered income. Respondent further maintained that in October of 1989, Claimant transferred his account to its office in Ft. Myers, Florida. Respondent contended that prior to investing in the Fund, Claimant was given a prospectus and was told all material information, including the illiquidity characteristic. Respondent further contended that the Fund represented only 2% of his well diversified portfolio. Respondent maintained that the investment was recommended on the basis of Claimant's stated net worth, annual income and investment objectives. Respondent further maintained that the Claimant was not the victim of any misrepresentation or other sales abuse. Respondent contended that as a result of the above, it should not be held liable.

RELIEF REQUESTED

Claimant George M. Garnic, requested \$5,000.00 in actual damages.

Respondent Prudential Securities, Inc., requested that the claims of the Claimant be dismissed.

**OTHER ISSUES CONSIDERED AND DECIDED**

The arbitrator considered and reviewed all documentation submitted by the parties concerning Respondent's Motion to Dismiss for failure to file the claim within the applicable Statute of Limitation time period. The arbitrator denied the Motion.

**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Alexander J. Fedor, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on October 17, 1989 and by the Respondent on January 5, 1996.

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. The Respondent Prudential Securities, Inc. is liable and shall pay to the Claimant George M. Garnic \$5000.00 in actual damages.
2. The Respondent Prudential Securities, Inc. is liable and shall pay to the Claimant George M. Garnic simple interest at the rate of 12% per annum from October 12, 1989 to December 31, 1994; 8% per annum from January 1, 1995 to December 31, 1995 and 10% per annum from January 1, 1996 to the date of payment of the Award.
3. The parties shall bear their respective costs.
4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. The Respondent Prudential Securities, Inc. is liable and shall pay to the Claimant George M. Garnic \$125.00 as reimbursement of the filing fee.
5. All other relief requests are denied.

**AFFIRMATION**

I, ALEXANDER J. FEDOR, 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.

  
Alexander J. Fedor

DATE OF DECISION: April 18, 1996