

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Kenneth W. Cauwet

96-02148

Name of Respondents

Prudential Securities, Inc.  
Leland Levy

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on May 15, 1996, Claimant, Kenneth W. Cauwet ("Claimant"), who appeared Pro Se, alleged that in August 1987, he consulted Respondent Leland Levy ("Levy"), an employee of Respondent Prudential Securities, Inc., for advice on investing the balance in his money market fund at Prudential Bache. Claimant further alleged that his experience in purchasing securities was limited and he relied entirely on Levy's expertise and discretion in choosing where to invest. Claimant also alleged that Levy suggested investment in a 'B rated bond' offered by Rymer Corporation ("Rymer") which paid 13% interest annually. Claimant asserted that Levy assured him that the bond would increase in value, but had actually sold him a "junk bond" which was valued at 40% below its original value. Claimant further asserted that Rymer announced plans to file for reorganization under Chapter 11 and Levy advised him to consent to the terms of the reorganization, with the hope that the bond would increase in value. Claimant also alleged that Levy's failure to counsel was not in his best interest and caused him to suffer losses.

Respondents Prudential Securities, Inc. and Leland Levy ("Respondents"), through their representative and in-house counsel, Steven L. Raimer, Esq., maintained that at the time Claimant held his account at Prudential, his bonds were indeed "B" rated. Respondents further maintained that Claimant received an accurate description of the Rymer bonds before he purchased them and also admitted to being familiar with that type of investment. Respondents also maintained that Levy discussed the levels of risk involved and the significance of the bond ratings. Respondents asserted that in 1994 Claimant had the opportunity to sell the bonds but failed to take any measures to mitigate his damages. Respondents further asserted that Claimant failed to support the allegations in the Statement of Claim. Respondents also asserted that the Statement of Claim is ineligible for submission to NASD Arbitration and should be dismissed since it was filed more than six years after the transaction upon which the claim is based.

### **RELIEF REQUESTED**

Claimant Kenneth W. Cauwet requested \$10,000 in actual damages.

Respondents Prudential Securities, Inc. and Leland Levy requested that the claim be dismissed in its entirety.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The arbitrator considered and reviewed all documentation submitted by the parties regarding Respondents' Motion to Dismiss pursuant to Section 10304 (formerly Section 15) of the NASD Code of Arbitration Procedure. The arbitrator denied the motion.

### **AWARD**

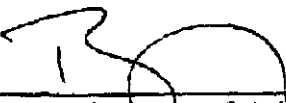
Pursuant to Section 10302 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Theodore A. Griffinger, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 13, 1996, by Respondent Prudential Securities, Inc. on July 2, 1996 and by Respondent Leland Levy on July 17, 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 claim of Claimant Kenneth W. Cauwet against Respondents Prudential Securities, Inc. and Leland Levy is dismissed in its entirety.
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.
4. All other relief requested are denied in their entirety.

**AFFIRMATION**

I, **THEODORE A. GRIFFINGER, 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.



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Signature of Arbitrator

**DATE OF DECISION:**

**October 28, 1996**

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1. The award of the parties to the issues submitted for determination as follows: of Claimant Kenneth W. Caprice against Respondent Securities, Inc. and Island, Inc. as admitted in its

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