

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Myrick Family Trust

and

96-03451

Name of Respondent

Prudential Securities, Inc.

REPRESENTATION OF PARTIES

Myrick Family Trust ("**Claimant**") was represented by Thomas J. Herd, Esq., Gaddis, Kin & Herd, P.C., Colorado Springs, Colorado.

Prudential Securities, Inc. ("**Respondent**") was represented by Charles B. LaChaussee, Esq., Prudential Securities, Inc., New York, New York.

CASE INFORMATION

The Statement of Claim was filed on or about August 12, 1996. Submission Agreement of Claimant Myrick Family Trust was signed on August 30, 1996 by William E. Myrick, Trustee.

Statement of Answer was filed by Respondent Prudential Securities, Inc. on or about November 14, 1996. Submission Agreement of Respondent Prudential Securities, Inc. was signed on August 14, 1996 by Stuart Abrams.

HEARING INFORMATION

The hearing was held on Tuesday, July 22, 1997 in Denver, Colorado for a total of two (2) sessions.

CASE SUMMARY

Claimant alleged that the actions of Respondent constituted violation of the Colorado Securities Act; violation of the Colorado Consumer Protection Act; negligent misrepresentation; and wilful and wanton negligence. Specifically, Claimant alleged that Scott Colyer, a registered representative of Respondent solicited the swap of municipal bonds. It was further alleged that during conversations

regarding the transactions at issue, Mr. Colyer made material misrepresentations and omitted to state material facts. Claimant alleged that Mr. Colyer failed to mention the tax consequences of the transactions at issue.

Respondent denied the allegations set forth in the Statement of Claim. Respondent specifically stated that Mr. Myrick as Trustee, authorized and ratified the transactions at issue in this matter. Respondent stated that Mr. Myrick understood the risks associated with investing in municipal bonds and clearly understood the relationship between rising interest rates and falling bond prices. In particular, Respondent stated that as a result of market conditions and other factors, Mr. Colyer recommended the sale of Colorado Springs Colorado Utilities Revenue Rfdg. bonds at a substantial profit and the purchase of Colorado Springs Colorado Utilities System Impt. Rfdg. bonds. Respondent also stated that Mr. Colyer never advised Mr. Myrick that there would not be tax consequences for the transactions.

RELIEF REQUESTED

Claimant requested an award of compensatory damages in the total amount of \$47,603.67, interest, costs, expert witness fees, reasonable attorneys' fees, exemplary damages, and such other and further relief as is deemed appropriate. Claimant also requested treble damages pursuant to the Colorado Consumer Protection Act (C.R.S. §6-1-113).

Respondent requested that the claims asserted in this matter be dismissed in their entirety and that costs be awarded in its' favor.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Regulation, Inc. Office of Dispute Resolution.

AWARD

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

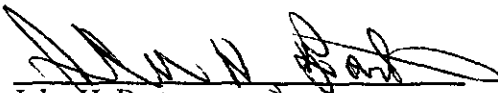
1. The claims asserted in this matter shall be and hereby are dismissed in their entirety.
2. Each party shall bear its own costs, expenses and fees, including attorneys' fees incurred in this matter not specifically enumerated herein.

FORUM FEES


Forum fees are calculated at the rate of \$400 per hearing session and \$300 for each pre-hearing conference, if any. There were two (2) sessions x \$400 = \$800 in forum fees. Pursuant to Rule 10332(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to Rule 10332(c) of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$120 and shall **retain** as forum fees the hearing session deposit in the amount of \$400 previously deposited with the NASD Regulation, Inc. Office of Dispute Resolution by the Claimant Myrick Family Trust. Claimant Myrick Family Trust shall be and hereby is liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the sum of \$400 as the balance due for forum fees.

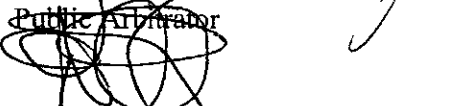
Pursuant to Rule 10333 of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable member surcharge in the amount of \$200. **Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.**


John H. Barton
Public Arbitrator, Presiding Chair

Dated: 7-22-97


Harold C. Young
Public Arbitrator

7-22-97


Alexander N. Feick
Industry Arbitrator

7-22-97