

C/m

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
)
Martin K. Donaldson,)
) Claimant,)
) Case #88-00779
vs.) Award
)
Prudential-Bache Securities,)
) Respondent.)
)

Heard before the members of the Arbitration Panel:

John P. Cullem, Esq.
James R. Kennedy Jr., Esq.
Mr. Arthur De Stefano

CASE SUMMARY

This claim was filed with the NASD, Inc. on March 9, 1988. The hearing was conducted in Tampa, Florida, with a total of two sessions. Claimant Martin Donaldson ("Donaldson") alleged that Respondent Prudential Bache Securities ("Bache") negligently recommended that he purchase 3,000 shares of Daxor Corporation Stock and that his broker subsequently recommended that he average down and purchase an additional 6,000 shares, which recommendation, Donaldson claimed, was excessive in light of his overall financial ability and investment objectives and which, he claimed violated regulations of the NASD, NYSE, Securities and Exchange Act of 1934 and Chapter 517 of the Florida Statutes and Constituted a Breach of Fiduciary Duty. Respondent, Bache, contended that the investments were Donaldson's idea, that they were not excessive, and counterclaimed alleging a debit balance in Donaldson's account.

RELIEF REQUESTED

Claimant, Donaldson, requested damages of Nineteen Thousand Three Hundred Forty-Eight and 85/100 (\$19,348.85) Dollars plus interest, and attorney's fees pursuant to Section 517 of the Florida Statutes and other costs. Respondent requested dismissal of claim and costs as well as damages of Fifty-One Thousand Four Hundred Twenty-Eight and 87/100 (\$51,428.87) Dollars plus interest and attorney's fees.

AWARD

On May 30, 1989, the arbitrators heard the controversy between parties as set forth in submission to arbitration signed by Claimant on March 4, 1988, and by Respondent on April 26, 1988. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. 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, Inc.
2. Respondent, Bache, shall not be and hereby is not liable to the Claimant and, therefore, all claims against it shall be and hereby are dismissed.
3. Claimant/Counter Respondent, Donaldson, shall be and hereby is liable to the Respondent/Counter Claimant, Bache, and, therefore, shall pay to Respondent/Counter Claimant the amount of Fifty-One Thousand Four Hundred Twenty Eight and 87/100 (\$51,428.87) Dollars plus Thirteen Thousand Three Hundred Seventy-One and 51/100 (\$13,371.51) Dollars in prejudgement interest for a total sum due the Respondent/Counter Claimant of Sixty-Four Thousand Eight Hundred and 38/100 (\$64,800.38) Dollars.
4. Claimant/Counter Respondent, Donaldson shall be and hereby is liable and shall pay to the Respondent/Counter Claimant, Bache, the further amount of Ten Thousand Five Hundred Thirty-Seven and 97/100 (\$10,537.97) Dollars for attorneys' fees pursuant to Section 517.211, Florida Statutes.
5. Pursuant to Section 43 of the Code of Arbitration Procedure, Claimant, Donaldson, shall be and hereby is assessed forum fees in the amount of One Thousand and 00/100 (\$1,000.00) Dollars. The National Association of Securities Dealers, Inc. shall retain the Five Hundred and 00/100 (\$500.00) Dollar filing fee previously deposited by the Claimant for a portion of such forum fees.
6. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

John P. Cullem
James R. Kennedy Jr.
Arthur De Stefano

Dated: June 13, 1989