

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

John Coleman and Jan B. Hayes, Jr.

Claimants

and

Prudential Bache Securities, Inc.

Respondents

A W A R D
88-02002

CASE SUMMARY

In a claim filed with the NASD on June 2, 1988, Claimants John Coleman Hayes, Jr. and Jan B. Hayes ("the Hayes'") alleged that Respondent Prudential Bache Securities, Inc. ("Prudential Bache"), through its registered representative, violated Tennessee Common law, Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. Section 78j(b), Rule 10(b)-5, 17 C.F.R. Section 240.10(b)-5, promulgated thereunder and Section 48-2-121-(a) and (b) of the Tennessee Code annotated in failing to effect the sale of 50 OEX Nov.290 calls at 3 3/4 on October 20, 1987 and in purchasing certain GM, IBM and XON calls at the market price rather than limit prices as authorized by the Hayes'.

Prudential Bache denied the allegations of the claim and alleged that the actions of Prudential Bache were at all times reasonable and responsible. Prudential Bache alleged that the prices for the executed trades in the Hayes' account were due to "fast market" conditions on the Chicago Board Options Exchange, that the Hayes' received the execution prices to which they were entitled and that there was no negligence or failure to properly handle the Hayes' orders on the part of Prudential Bache.

RELIEF REQUESTED

The Hayes' requested damages of \$30,492.32 plus attorney's fees. Prudential Bache requested dismissal of the claim and an award of costs.

November 6, 1989

OTHER ISSUES

Prior to opening statements, Claimant's counsel sought to amend the damages claimed on behalf of the Hayes'. The panel ruled preliminarily that the calculation of damages would be allowed so long as the substantive theory of recovery did not. Prior to convening the second hearing session on the afternoon of August 24, 1989, Claimant's counsel sought to clear up the confusion surrounding the amount of Claimant's damages. It was determined that the amount of damages was \$30,492.32 which was arrived at by adding the alleged losses on the OEX trade and the alleged losses on the IBM, XON and GM calls.

AWARD

On Thursday, August 24, 1989 and Tuesday, October 10, 1989 during a hearing lasting three sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on May 27, 1988 by Claimants John and Jan Hayes and on August 31, 1988 by Kenneth Meister on behalf of Respondent Prudential Bache.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. Prudential Bache is liable for and shall pay to John and Jan Hayes jointly, the sum of Nineteen Thousand Two Hundred Seventeen Dollars and Fifty Cents (\$19,217.50);
2. The parties shall each bear their respective costs and expenses including any attorney's fees incurred in this matter; and
3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the \$400.00 filing fee previously deposited with the NASD by the Hayes' and Prudential Bache is assessed and shall pay to the NASD as forum fees, the sum of \$1,200.00.

By the Panel

Dated: _____ /S/ _____
Stanley Snodgrass, Esq.
Presiding Chairman

Dated: _____ /S/ _____
Daniel Eugene Bivins III

Dated: 11-2-'89 /S/ Lawrence F. Wahl
Lawrence F. Wahl

NASHVILLE