

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Margaret W. Spink

Claimant

vs.

Prudential-Bache Securities, Inc.
and Donald Haven

Respondents

CASE NO. 88-02603

SUMMARY OF ISSUES

Claimant filed this claim with the NASD on August 16, 1988 and alleged that Respondents breached their fiduciary duty by recommending unsuitable investments in limited partnerships and options transactions, and that the options transactions in her account were engaged in by Respondents for the purpose of generating commissions and in a manner that could not be justified as necessary to meet Claimant investment objectives.

Respondents denied the allegations and maintained that in connection with Claimant's investment in the limited partnerships, Claimant signed in each instance a subscription agreement representing receipt of the prospectus and that she met the suitability standards required for each investment. Respondents further maintained that Claimant was advised of the risks involved in option trading by her broker and by the documentation provided to her when she executed the options agreement. Respondents further maintained that Claimant was sent confirmation notices of each and every transaction as well as monthly statements detailing the activity in her account for over two years without voicing a complaint or objection and is barred from recovery by the provisions of waiver, estoppel, and laches.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages of \$55,106.67 arising out of the claim for churning, \$169,446.83 arising out of the claim for suitability, a refund of the \$750.00 filing fees, interest at the maximum lawful rate, and reasonable attorneys' fees.

Respondent requested dismissal of the claim.

DAMAGES AND RELIEF AWARDED

On December 7 and 8, 1989 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on August 5, 1988 and by Respondents Prudential-Bache Securities, Inc. on October 10, 1988 and Donald L. Haven on November 28,

1988. The hearing was held in Beverly Hills, California and lasted three (3) sessions. 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. Respondents are jointly and severally liable for and shall pay to Claimant the sum of Seventy-Three Thousand Dollars (\$73,000.00) which includes interest.

2. The parties shall each bear their respective costs including attorneys' fees.

3. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. ("NASD") Code of Arbitration Procedure, the NASD shall retain the \$750.00 filing fee previously deposited by the Claimant.

OTHER ISSUES

The parties stipulated to the execution and service of the award in counterpart copies.

ARBITRATORS CONCURRING

DATE SERVED: 12/20/89

Herbert Leslie Greenberg

James H. Gormsen

Diana G. Davis