

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
Benjamin B. and Joan Greenberg.)
Claimants,)
vs.) Case #88-02994
Prudential Bache Securities, Inc.,) Award
Respondent.)

Heard before the members of the Arbitration Panel:

Howard E. Kurzweil, Esq.
Mr. Norris L. Friedlander
Mr. S. Richard Savage

CASE SUMMARY

This claim was filed with the NASD, Inc. on September 23, 1988. The hearing was conducted in Fort Lauderdale, Florida on August 3, 1989 and August 24, 1989 with a total of 3 sessions.

Claimants, Benjamin and Joan Greenberg ("the Greenbergs") alleged that Respondent, Prudential Bache Securities, Inc. ("Bache"), violated Sections 5(b) and 12 of the Securities Act of 1933. Specifically, Claimants alleged that they were placed in unsuitable investments and were not informed of all the risks involved prior to their purchasing the investments. Respondent alleged that: Claimants were informed of all the risks; were given a prospectus prior to purchasing the investment; that the investments were in accordance with Claimants investment objectives; that Respondent did not guarantee a rate of return to Claimants; and that Claimants were suitable for the investments.

RELIEF REQUESTED

Claimants requested rescission of the sale plus interest and other costs. Respondent requested dismissal of the claim, attorney's fees and other costs.

AWARD

On August 3, 1989 and August 24, 1989, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on September 20, 1988, and by Respondent on August 3, 1989. 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 originals remain on file with the NASD, Inc.

2. Respondent, Bache, is hereby liable and shall restore to Benjamin Greenberg's IRA Account, Number AFG 804499-11, the amount of Thirty Nine Thousand and 00/100 (\$39,000.00) Dollars within 45 days from the date of this Award in rescission of any ownership interest in Prudential Bache Energy Growth Fund Number Three (3).
3. Respondent, Bache, is hereby liable and shall restore to Joan Greenberg's IRA Account, Number AFG 804502-11, the amount of Four Thousand and 00/100 (\$4,000.00) Dollars within 45 days from the date of this Award in rescission of any ownership interest in Prudential Bache Energy Growth Fund Number Three (3).
4. Upon restoration of the funds listed in paragraphs 2 and 3 to the respective IRA Accounts, the Claimants, Benjamin and Joan Greenberg, shall tender to Bache any certificates held by them evidencing ownership or any such documents reasonably required to evidence the transfer of ownership of Prudential Bache Energy Growth Fund Number Three (3).
5. Respondent's request for attorney's fees is hereby dismissed in all respects.
6. Pursuant to Section 43 of the Code of Arbitration Procedure, the Arbitrators have assessed forum fees in the amount of One Thousand Two Hundred and 00/100 (\$1,200.00) Dollars (\$400 x 3 sessions). Claimants are hereby assessed forum fees in the amount of Six Hundred and 00/100 (\$600.00) Dollars. The NASD, Inc. shall retain the Four Hundred and 00/100 (\$400.00) Dollar filing fee previously deposited by the Claimants in partial satisfaction of such forum fees. Respondent is hereby assessed forum fees in the amount of Six Hundred and 00/100 (\$600.00) Dollars to be paid to the NASD, Inc.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

Howard E. Kurzweil, Esq.
Mr. Norris L. Friedlander
Mr. S. Richard Savage

Dated: August 31, 1989