

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Catherine Ferrari

Name of Respondent(s)

Prudential-Bache Securities Inc.
Joseph Ledgwich
Barbara Sherman

88-03098

FEB 11 1991

CHICAGO

CASE SUMMARY

In a claim filed with the NASD on or about October 4, 1988, Catherine Ferrari ("Ferrari") alleged that Prudential-Bache Securities, Inc. ("Pru-Bache"), Joseph Ledgwich ("Ledgwich") and Barbara Sherman ("Sherman"): 1) engaged in the churning of Claimant's account by moving Claimant's funds from one mutual fund family to another in order to generate commissions; 2) failed to inform Claimant of the commissions involved in the transactions conducted in Claimant's account; 3) made misrepresentations of the provisions of annuities sold to Claimant; and 4) delayed in correcting misrepresentations after knowing of the misrepresentations.

Ferrari also asserted that Ledgwich failed to exercise his obligation to monitor broker transactions in a responsible manner, and with the aid of or at the direction of the legal department of Pru-Bache and together with said legal department exercise duress upon Claimant to obtain a release upon the return of a portion of Claimant's funds.

In a joint statement of answer filed with the NASD on or about May 11, 1989, Respondents asserted that Claimant's case has no merit and has been previously settled. Respondents asserted that Claimant signed a valid Release and Settlement Agreement which discharges Respondents from the claims made by the Claimant.

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RELIEF REQUESTED

Ferrari requested fund switching and churning damages in the amount of \$54,672.

Pru-Bache, Ledwidge and Sherman requested attorneys fees.

AWARD

On October 23, 1990 in Phoenix, Arizona during a hearing lasting a total of three (3) sessions, the undersigned arbitrator(s) heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Catherine Ferrari on September 1, 1988, and signed by Kenneth E. Meister on behalf of Prudential-Bache Securities, Inc. Respondents Joseph Ledgwich and Barbara Sherman did not sign any submissions to arbitration, but both appeared and took part in the proceedings as Respondents.

After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrators have decided 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 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;

2. Respondent Prudential-Bache Securities, Inc. is liable for and shall pay to Claimant interest on the sum of \$140,000.00 at the rate of 10% per annum accruing from September 26, 1987 to December 12, 1987;

3. In addition, Respondent Prudential-Bache Securities, Inc. is liable for and shall pay to Claimant interest on the sum of \$35,832.60 at the rate of 10% per annum accruing from December 16, 1987 to January 12, 1988;

4. In addition, Respondent Barbara Sherman is liable for and shall pay to the Claimant the sums she received as commissions, but not the portion retained by Respondent Prudential-Bache Securities, Inc. on the following transactions:

- 1) The purchase of Putnam High Income Government Trust on May 16, 1986 settlement date May 23, 1986, in the amount of \$42,011.14 which total commission was in the sum of \$2,835.00.
- 2) The purchase of Putnam High Income Government Trust on May 16, 1986, settlement date May 23, 1986, in the amount of \$50,010.82, which total commission was in the sum of \$3,000.00

- 3) The purchase of Putnam High Income Government Trust on October 10, 1986, settlement date October 20, 1986, in the amount of \$42,831.88, which total commission was in the sum of \$2,100.00

All sums above the portion paid by Respondent Barbara Sherman to the full amount of the load (including both commission and all other fees that make up the load) are to be paid by Respondent Prudential-Bache Securities, Inc.

5. In addition, Respondent Prudential-Bache Securities, Inc. is liable for and shall pay Claimant the sum of \$54,672.00;

6. Interest on such sums to accrue 10 days from the date of the last signature of a panel member on this Award at the rate of 10% per annum until paid;

7. Respondent Prudential-Bache Securities, Inc. and Respondent Barbara Sherman are jointly and severally liable for all sums set forth above in any award specifically against Respondent Barbara Sherman to the extent she does not pay them;

8. There is no Award of Attorney's fees or costs except as set forth in the following paragraph for filing fees and forum fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the hearing session deposit in the amount of \$300.00 previously deposited with the NASD by the Claimant. The filing fee of \$300.00 is hereby assessed against the Respondent, Prudential-Bache Securities, Inc. along with forum fees in the amount of \$900.00.

BY THE PANEL

DATED: _____

/S/ _____
Charles R. Hoover
- Presiding Chairman

DATED: Feb 2, 1991

/S/ John E. Hansgen
John E. Hansgen

DATED: _____

S _____
Audria Sullivan
Industry Panel

- 3) The purchase of Putnam High Income Government Trust on October 10, 1986, settlement date October 20, 1986, in the amount of \$42,831.88, which total commission was in the sum of \$2,100.00

All sums above the portion paid by Respondent Barbara Sherman to the full amount of the load (including both commission and all other fees that make up the load) are to be paid by Respondent Prudential-Bache Securities, Inc.

5. In addition, Respondent Prudential-Bache Securities, Inc. is liable for and shall pay Claimant the sum of \$54,672.00;

6. Interest on such sums to accrue 10 days from the date of the last signature of a panel member on this Award at the rate of 10% per annum until paid;

7. Respondent Prudential-Bache Securities, Inc. and Respondent Barbara Sherman are jointly and severally liable for all sums set forth above in any award specifically against Respondent Barbara Sherman to the extent she does not pay them;

8. There is no Award of Attorney's fees or costs except as set forth in the following paragraph for filing fees and forum fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the hearing session deposit in the amount of \$300.00 previously deposited with the NASD by the Claimant. The filing fee of \$300.00 is hereby assessed against the Respondent, Prudential-Bache Securities, Inc. along with forum fees in the amount of \$900.00.

BY THE PANEL

DATED: _____

/s/ _____
Charles R. Hoover
Presiding Chairman

DATED: _____

/s/ _____
John E. Hansen

DATED: 2/16/91

s. Audria Sullivan
Audria Sullivan
Industry Panelist