

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between	)	
Michael and Lanetta Blodgett,	)	
Antoinette G. Attell and	)	
Carol Irving	)	
	)	
Claimants	)	
	)	AWARD
vs.	)	
	)	NASD #88-03135
Prudential-Bache Securities, Inc.,	)	
Charles Bergman and	)	
Jerry Gettinger	)	
	)	
Respondents	)	

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers on October 7, 1988. Claimants' alleged that the investments recommended and effectuated by Respondents were unsuitable to the Claimants' financial objectives; that Respondents misrepresented both the risks of equity and index option trading as well as the actual status of each account on particular dates; that their accounts were churned by their broker; that Respondents failed to follow oral and written instructions; and that Respondents failed to supervise the trading activity in Claimants' accounts.

Respondents specifically denied the allegations and maintained that all trades were previously discussed with each Claimant and were expressly authorized before the trades were made, and that no inappropriate trading occurred in the various accounts. Respondents further maintained that Claimants ratified the transactions in their accounts, and failed to mitigate any alleged damages by failing to make any complaints until well after such transactions occurred.

DAMAGES AND RELIEF REQUESTED

Claimants requested attorneys' fees and damages, as amended at the hearing, as follows:

1. In the Blodgett P&I retirement account, actual damages of \$460,288, interest of \$138,086, unspecified punitive damages, and dismissal of the counterclaim;

2. In the Blodgett P&I corporate account, actual damages of \$16,960, interest of \$5,088, and unspecified punitive damages;
3. In the Lanetta IRA account, actual damages of \$1,934, interest of \$580, and unspecified punitive damages;
4. In the Michael IRA account, actual damages of \$1,934, interest of \$580, and unspecified punitive damages;
5. In the Lanetta Blodgett account, actual damages of \$1,849, interest of \$555, and unspecified punitive damages;
6. In the Baby Lucette account, actual damages of \$2,923, interest of \$920, and unspecified punitive damages;
7. In the Carol Irving account, actual damages of \$503,337, interest of \$151,000, unspecified punitive damages and dismissal of the counterclaim; and
8. In the Toni Attell account, unspecified punitive damages against respondent Bergman solely.

Respondents requested dismissal of the claims and costs. Respondent Prudential-Bache Securities, Inc. counterclaimed for damages resulting from debit balances against the Blodgett P&I account in the amount of \$128,346.87 plus interest, and against the Carol Irving account in the amount of \$101,536.15 plus interest.

#### DAMAGES AND RELIEF AWARDED

On August 22, 23, 24, 29, 30, September 4, 13, and November 27, 29, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants Michael and Lanetta Blodgett on September 13, 1988, Antoinette G. Attell on July 28, 1988 and Carol Irving on September 22, 1988 and by Respondents Prudential-Bache Securities, Inc. on January 4, 1989 and Jerry Gettinger on January 4, 1989. Respondent Charles Bergman did not file an executed submission agreement but is subject to the jurisdiction of the arbitration pursuant to Section 1 and 12 of the Code of Arbitration Procedure and voluntarily submitted to the forum. The hearing was conducted in Los Angeles, California and lasted eighteen (18) 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 as follows:

1. Claimant Carol Irving is hereby awarded the sum of Sixty-Three Thousand, Eight Hundred and Three Dollars and Zero Cents (\$63,803.00) which includes interest, assessed jointly and severally against the Respondents. This amount is calculated as an offset of damages awarded as follows:
  - a. Claimant Carol Irving is awarded the sum of \$150,303 assessed against Respondents jointly and severally; and
  - b. Counterclaimant Prudential-Bache Securities, Inc. is awarded the sum of \$101,536 assessed against Claimant Carol Irving.
2. All claims asserted by Claimants in the Lanetta Blodgett IRA account, Michael Blodgett IRA account, Blodgett P&I corporate account, Lanetta Blodgett individual account, and the Baby Lucette Blodgett account are denied.
3. Counterclaimant Prudential-Bache Securities, Inc. is hereby awarded the sum of Eighty-Three Thousand, Eight Hundred Fifty Dollars and Zero Cents (\$83,850) assessed against Claimant Blodgett P&I IRA account. This amount is calculated as an offset of damages awarded as follows:
  - a. Claimant Blodgett P&I IRA account is awarded the sum of \$31,822 assessed against Respondents jointly and severally; and
  - b. Counterclaimant Prudential-Bache Securities, Inc. is awarded the sum of \$115,672 assessed against Claimant Blodgett P&I IRA.
4. Claimant Antoinette G. Attell is hereby awarded the sum of Five Thousand Dollars and Zero Cents (\$5,000) representing punitive damages under California Civil Code Section 3294 assessed against Respondent Charles Bergman solely. No actual damages are awarded based upon the parties representation to the Panel that a settlement agreement was entered into between Claimant and Respondent Prudential-Bache Securities, Inc.
5. All other claims and counterclaims are denied.
6. The parties shall each bear their respective costs including attorneys' fees.

7. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$1,000.00 filing fee previously deposited by the Claimants.

OTHER ISSUES

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

ARBITRATORS CONCURRING

DATE SERVED: 2/5/91

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
George N. Roy