

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

IN THE MATTER OF THE ARBITRATION BETWEEN

Dana C. Kent

CLAIMANT

vs.

Shearson Lehman Brothers, Inc.
Prudential-Bache Securities, Inc.
Michael Prokop

RESPONDENTS

Case #88-03449

AWARD

CASE SUMMARY

This proceeding was commenced initially on November 4, 1988 by Claimant Dana C. Kent ("Kent") against Respondents Shearson Lehman Brothers, Inc. ("Shearson"), Prudential-Bache Securities, Inc. ("Pru-Bache") and Michael Prokop ("Prokop") and arises out of certain accounts held by Claimant from August 1985 through July 1988. Claimant asserts that Respondents are liable for certain losses incurred in these accounts while Prokop was employed at Shearson and Pru-Bache. Specifically, Claimant alleges that Prokop breached his duty to Claimant by recommending and executing unsuitable trades in the account, by failing to establish and implement appropriate supervisory procedures and by misrepresenting the risks of various stock purchases and option programs.

Claimant asserts claims for breach of contract, breach of fiduciary duty, common law fraud, intentional infliction of mental distress arising out of the

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accounts. Claimant further alleges violations of federal and state law as well as the Rules of the New York Stock Exchange and the National Association of Securities Dealers, Inc..

Respondents deny any breach of duty and liability owed to Claimant with respect to the accounts. Respondents essentially contend that Kent understood the risks inherent in stock and margin trading. Respondents additionally contend that Claimant was involved in the trading decisions concerning the accounts and directed and authorized the transactions. Respondents further assert that they acted in compliance with all applicable rules and regulations.

RELIEF REQUESTED

Claimant requests monetary damages against Shearson in excess of \$80,062.00 and monetary damages against Pru-Bache in excess of \$47,590.00, as well as punitive damages in excess of \$1,000,000.00.

Respondents request that the complaint be dismissed with prejudice in its entirety.

AWARD

On November 21 and 22 and December 11, 1989, said dates representing seven (7) hearing sessions, in Atlanta, Georgia signed by Claimant and Respondent hereto. 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 claim of Claimant Dana C. Kent against Shearson Lehman Brothers, Inc., Prudential-Bache Securities, Inc. and Michael Prokop shall be denied.
2. The parties shall each bear their respective costs including attorney's fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealer, Inc. shall retain the \$1000.00 filing fee previously deposited by the Claimant as costs of the initial hearing session conducted in this matter.

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CONCURRING ARBITRATORS

Christopher J. Moran

CHRISTOPHER J. MORAN

Kenneth O. Simon

KENNETH O. SIMON

Herschell E. Parent II

HERSCHELL E. PARENT II

DATED: January 25, 1990