

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between )  
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Elliott and DeAnna K. Kanarek, )  
 ) Claimants, )  
 ) Case #88-03705  
vs. ) Award  
 )  
Prudential-Bache Securities Inc. and )  
George P. Vescio, )  
 ) Respondents. )  
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Heard before the members of the Arbitration Panel:

William A. Fleck, Esq.  
Meah Dell Rothman Tell, Esq.  
Mr. Terrence W. Grant

CASE SUMMARY

This claim was filed with the NASD, Inc. on December 1, 1988. The hearing was conducted in Fort Lauderdale, Florida on September 13, 1989, with a total of 2 sessions.

Claimants, Elliott and DeAnna K. Kanarek, ("Kanarek") alleged that Respondents, Prudential-Bache Securities Inc., ("Bache") and George P. Vescio, ("Vescio") solicited them to invest in stock index options that were unsuitable for Claimants, through misrepresentations of material fact and omitting to state material facts; that the conduct of Respondents constituted Civil Theft in violation of Section 812.014 Florida Statutes; breach of fiduciary duty to Claimants; common law fraud; negligence; and violated Article III, Sections 1 and 2 of the NASD Rules of Fair Practice.

Respondents denied all allegations of wrongdoing or impropriety and alleged that Claimants' account was professionally handled; that every transaction was understood and authorized by Claimants; that Claimants were suitable for the options trading in their account; and that Respondents fully disclosed the risks and details of options trading. Respondents counterclaimed for costs and expenses.

RELIEF REQUESTED

Claimants requested damages in the amount of Thirty Thousand One Hundred Sixty-Six and 00/100 (\$30,166.00) Dollars for Mr. Kanarek's losses and Three Thousand Seven Hundred Seventy-Three and 00/100 (\$3,773.00) Dollars for Ms. Kanarek's losses, treble damages, costs, reasonable attorney's fees and other relief. Respondents requested costs and expenses.

#### AWARD

On September 13, 1989, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on November 25, 1988, and by Respondents, on September 13, 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. Respondents, Bache and Vescio, are hereby not liable to the Claimants and, therefore, all claims against them are hereby dismissed.
3. Claimants' request for treble damages, punitive damages and attorney's fees are hereby dismissed in their entirety.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, Claimants are hereby assessed forum fees in the amount of One Thousand Five Hundred and 00/100 (\$1,500.00) Dollars (2 sessions x \$750.00). The National Association of Securities Dealers, Inc. shall retain the Seven Hundred Fifty and 00/100 (\$750.00) Dollar filing fee previously deposited by the Claimant in partial satisfaction of such forum fees.
5. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

#### OTHER ISSUES

None.

#### ARBITRATORS CONCURRING

William A. Fleck Esq., Meah Dell Rothman Tell Esq. and Terrence W. Grant

Dated this 20th day of September 1989.