

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

William H. Fountain

Claimant

vs.

CASE NO. 88-03931

Prudential-Bache Securities, Inc.
Glenn Holderreed

Respondents

Heard before:

Marcus E. Gracia, Jr.
Owen Guinn Smith
Edward H. Sanborn, IV

SUMMARY OF ISSUES

This case was filed on December 27, 1988. Claimant alleged negligence, misrepresentation, breach of contract, breach of fiduciary duty, failure to supervise, conflict of interest, breach of the covenant of good faith and fair dealing, fraud, deceit and unauthorized transactions in common stocks. Respondents denied all allegations and asserted that all transactions were authorized and all instructions given were followed. At the hearing, Claimant withdrew claims alleging violations of securities laws, churning and suitability.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages in the amount of \$42,494.98 plus loss of the bargain on Priam stock --- or, in the alternative --- \$98,225.06 (the amount of account equity as of 4/30/87) plus \$55,882.22 cash deposit made in May, 1987 offset by approximately \$40,000.00 (the amount of account equity as of 7/10/87) plus interest from 7/10/87, attorneys' fees and punitive damages. Respondents requested dismissal of all claims and an award of attorneys' fees.

DAMAGES AND RELIEF AWARDED

On November 28, 1989 in San Francisco, California, the undersigned arbitrators heard the controversy in two (2) sessions between the parties as set forth in submissions to arbitration signed by Claimant on December 15, 1988 and by Respondent Prudential-Bache Securities on February 3, 1989, and by Respondent Glenn Holderreed on December 4, 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. Claimant's causes of action for failure to supervise, breach of contract and breach of the covenant of good faith and fair dealing are dismissed.

2. With respect to Claimant's causes of action for fraud and deceit, misrepresentation, negligence, conflicts of interest, and breach of fiduciary duty, the panel finds in favor of Respondents.

3. The claim for punitive damages is dismissed.

4. The parties shall each bear their respective costs including attorneys' fees.

5. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. ("NASD") Code of Arbitration Procedure, the NASD shall retain the \$750.00 filing fee previously deposited by the Claimant.

OTHER ISSUES

Respondents are assessed jointly and severally forum fees in the amount of \$750.00, payable to the NASD through its staff representative.

DATE SERVED: 12/07/89