

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Theodore S. Mayer

Claimant

vs.

Prudential-Bache Securities, Inc. Respondent
and Laurence Lackaye

AWARD

CASE NO. 89-00195

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on January 24, 1989. Claimant alleged that on July 6, 1988 he placed an order with Respondents to buy back his Sun Micro calls at 2 1/2 and sell his long position in Sun Micro at 40 3/4 and that Respondents failed to execute the second part of his order thereby causing a loss. Claimant further alleged that Respondents failed to advise him that the shares could have been sold at 40 1/2; failed to advise him of his option to sell his shares first and then buy back his calls; and failed to advise him that selling 5,000 shares of Sun Micro could cause a fluctuation in the market and drive down the price of the calls. Claimant further alleged that Respondents used unauthorized discretion by failing to execute the orders as placed and did not maintain proper communication with Claimant regarding the status of his order.

Respondents denied the allegations and maintained that Claimant placed a specific order to buy back the calls and sell the shares at a specified price, that the orders were entered into the market as placed, resulting in the execution of the calls being bought back but the shares did not execute at the price entered. Respondents further maintained that it would have been a violation of options exchange rules to sell the shares first, leaving Claimant in an uncovered position, without specific authority from Claimant to enter the orders in this manner; that the sale of 5,000 shares of Sun Micro had little effect on the market as it was trading between 700,000 to 900,000 shares per day during this period; and that Respondents maintained proper communication with Claimant.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages in the amount of \$35,740.00.

Respondent requested dismissal of the claim and costs.

DAMAGES AND RELIEF AWARDED

On February 7, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on December 30, 1988 and by Respondent Prudential-Bache Securities, Inc. on April 18, 1989 and Laurence Lackaye on April 18, 1989. The hearing was held in San Francisco, California and lasted two 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 for determination as follows:

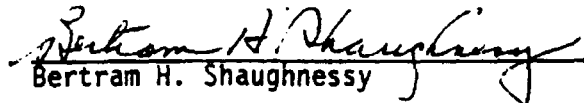
1. Each and every claim is hereby dismissed.
2. The parties shall each bear their respective costs including attorneys' fees.
3. Pursuant to Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$400.00 filing fee previously deposited by the Claimant.

OTHER ISSUES

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

PRESIDING ARBITRATORS

DATE SERVED: 03/16/90


Bertram H. Shaughnessy