

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between/Among

Karl Butler

Claimant

vs.

Prudential Bache, Roger Yanow
and Peter Dwan

Respondents

Case #89-01199
AWARD

CASE SUMMARY

Claimant Karl D. Butler alleged that Respondent Roger Yanow opened a speculative commodity futures account for the Claimant which was unsuitable for him. The Claimant alleged that Yanow never explained the exact nature of the account, and that the Claimant did not fully understand the nature of the account nor inherent risks involved. Claimant further alleged that Respondents Yanow, Peter Dwan and Prudential-Bache did not act in the Claimant's best interest, and that such activity was motivated by the Respondents' desire to generate commissions.

Respondents Yanow, Dwan and Prudential-Bache contended the Claimant was a wealthy, experienced trader who was knowledgeable and sophisticated about financial matters. Respondents contended the trading in the Claimant's account was suitable for him and was done with his knowledge and consent. Further, Respondents contended they always acted in the best interests of the Claimant, and that the losses sustained by the Claimant were due to market conditions and not through any impropriety on the part of the Respondents.

RELIEF REQUESTED

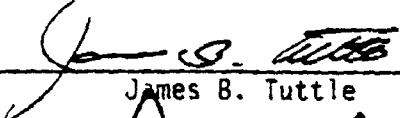
Claimant Karl D. Butler requested actual damages of \$310,000.00, plus commissions paid to Prudential-Bache, and \$25,000.00 in attorney's fees. Respondents Prudential-Bache Securities, Inc., Roger Yanow and Peter Dwan requested dismissal of the Statement of Claim in its entirety.

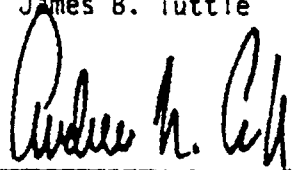
AWARD

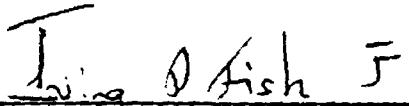
On June 12, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Karl D. Butler on April 14, 1989, by Respondent Prudential-Bache Securities, Inc. on April 30, 1990, by Respondent Roger E. Yanow on July 18, 1989, and by Respondent Peter Dwan on July 24, 1989. The initial claim was filed on April 24, 1989. The hearing was conducted in Albany, NY and consisted of three (3) hearing 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. Respondent Prudential-Bache Securities, Inc. be and hereby is liable and shall pay to the Claimant Karl D. Butler the sum of One Hundred Forty One Thousand Two Hundred Fifty Dollars And No Cents (\$141,250.00), inclusive of interest.
2. Respondent Roger E. Yanow be and hereby is liable and shall pay to the Claimant Karl D. Butler the sum of Thirty Five Thousand Dollars And No Cents (\$35,000.00), inclusive of interest.
3. Respondent Peter Dwan be and hereby is liable and shall pay to the Claimant Karl D. Butler the sum of Seven Thousand Five Hundred Dollars And No Cents (\$7,500.00), inclusive of interest.
4. The parties shall each bear their respective costs including attorney's fees.
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$750.00 filing fee previously deposited by the Claimant and Respondent Prudential-Bache Securities, Inc. be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of One Thousand Five Hundred Dollars And No Cents (\$1,500.00), as costs of the three (3) hearing sessions conducted in this matter. Also, Respondent Prudential-Bache Securities, Inc. be and hereby is liable and shall pay to the Claimant Karl D. Butler the sum of Seven Hundred Fifty Dollars And No Cents (\$750.00) to offset the filing fee paid by the Claimant.

CONCURRING ARBITRATORS


James B. Tuttle


Andrew N. Carnell


Irving D. Fish, Jr.

DATED: ~~June~~ ^{July} 16, 1990



DONNA L. SEBASTYANSKI
Notary Public
My Commission Expires
August 12, 1994