

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)

Name of Claimant(s))

Lynn & Catherine Corpman)

Name of Respondent(s))

Prudential-Bache Securities Inc.)

Walter O. Herren, Jr.)

CASE #89-02737

Heard before the members of the Arbitration Panel:

James R. Kennedy, Jr., Esq.

Public

Herbert L. Blume

Public

Allison Hardage

Industry

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on October 2, 1989. Claimants, Lynn and Catherine Corpman ("the Corpman") alleged that Respondents, Prudential Bache Securities, Inc. ("Pru-Bache") and Walter Herren, Jr. ("Herren") were liable for: purchasing limited partnerships and stocks for Claimants which were unsuitable and inconsistent with Claimants' investment objectives and which were not liquid and failed to generate income in contravention of Claimants' investment objectives; exposing Claimants to risks of loss which were not explained to Claimants; making investment decisions without authorization; reinvesting dividends rather than distributing them to Claimants contrary to Claimants' instructions; misrepresenting to Claimants that they could earn a higher return than their IRA was paying and thereby inducing Claimants into liquidating their IRA; failing to obtain Claimants' approval prior to liquidating Claimants' securities subsequent to the October 1987 Market Crash; and otherwise made misrepresentations and failed to follow Claimants' instructions.

In a Statement of Answer filed with the NASD on November 17, 1989, Respondents, Pru-Bache and Herren, alleged that Claimants' funds were diversified; the investments met Claimants' investment objectives; the mutual funds invested in were not chosen because they would generate larger commissions and in fact there were investment vehicles which would have generated larger commissions; Claimants ordered liquidation of their investments subsequent to the market crash; Claimants received prospectuses and were informed of all risks involved with limited partnerships; Claimants did not complain about the investments; Respondents did not try to rush a sale of one of the limited partnerships to deprive Claimants of a distribution; Claimants' attorneys gave ambiguous instructions when ordering liquidation; Claimants' damage calculations fail to take into account distributions received by Claimants; Claimants' losses were due to the market crash; Claimants were suitable for the investments; and the arbitrators do not have authority to award punitive damages under New York law.

RELIEF REQUESTED

Claimants requested: damages in the amount of \$92,260.83, plus interest, punitive damages in the amount of \$90,000.00, costs and attorney's fees.

Respondents requested: dismissal of the claim plus costs, and attorney's fees.

AWARD

On December 12 and 13, 1990 in Tampa, Florida during a hearing lasting 4 (four) sessions, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on September 12, 1989 and signed by Respondent, Herren, on December 13, 1990 and signed by Richard F. Dziedziula on behalf of Respondent, Pru-Bache, on January 5, 1990.

After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrators have decided 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 be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original(s) remain on file with the NASD.
2. Respondent, Pru-Bache, is found liable and shall pay to the Claimants the amount of Twenty Three Thousand Seven Hundred Fifty and 22/100 (\$23,750.22) Dollars.
3. Respondent, Herren, is found liable and shall pay to Claimants the amount of Four Thousand and 00/100 (\$4,000.00) Dollars.

4. This arbitration panel finds that the reasonable value of the services rendered by Claimants' attorney is Two Thousand Five Hundred and 00/100 (\$2,500.00) Dollars. Respondent, Pru-Bache, is also found liable and shall pay to the Claimants the further amount of Two Thousand Five Hundred and 00/100 (\$2,500.00) Dollars for attorney's fees pursuant to Section 517.211, Florida Statutes.

5. Claimants' request for interest and punitive damages is denied.

6. Respondents' request for costs and attorney's fees is denied.


FORUM FEES

7. Pursuant to Section 43 of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$3,000.00 (4 sessions x \$750.00 per session). Respondents, Pru-Bache and Herren, are hereby assessed \$3,000.00, jointly and severally, \$750.00 of which shall be payable directly to the Claimants as a return of their filing fee and \$2,250.00 of which shall be payable to the National Association of Securities Dealers, Inc.

8. The NASD, Inc. shall retain the \$750.00 previously deposited by the Claimants in partial satisfaction of such forum fees.

9. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.


Concurring Arbitrators' Signatures



James R. Kennedy, Jr., Esq.



Herbert L. Blume



Allison Hardage

Date of Decision: March 5, 1991