



N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Arbitration

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, New York 10004

In the Matter of the Arbitration Between

Name of Claimants

Richard and Beatrice Tamburri
Richard Delatore

vs.

Name of Respondents

Prudential Securities Inc.
Prudential-Bache Agriculture, Inc.

90-00341
Consol. w/
~~90-01002~~

REPRESENTATION

For Claimants: Timothy L. Bouscaren, Esq.

For Respondents: Joseph A. Ingrisano, Esq. of Kutak Rock & Campbell

CASE INFORMATION

Claimants, Richard and Beatrice Tamburri, Statement of Claim filed: February 01, 1990.

Submission Agreement signed on: April 05, 1990.

Claimant, Richard Delatore, Statement of Claim filed: April 10, 1990.

Submission Agreement signed on: January 30, 1990.

Joint Statement of Answer filed: April 06, 1990 and April 09, 1990.

Submission Agreement signed on May 14, 1990.

HEARING INFORMATION

Hearing Dates/Hearing Sessions: November 08, 1990 - Two sessions;
November 09, 1990 - Two sessions;
March 21, 1991 - Two sessions;
March 22, 1991 - Two sessions.

Hearing location: Pittsburgh, Pennsylvania.

CASE SUMMARY

The Tamburris allege that the Respondents' employee assigned to service Claimants' accounts forged their signatures on the promissory note for the

purpose of purchasing units in Spendthrift Thoroughbred Breeding No. 1 Limited Partnership. All Claimants contend that the offering documents contained material misrepresentations as well as omissions of material facts regarding the financial status and business history of the Spendthrift Farm among other things. Claimants also contend that Respondents violated State and Federal Law and securities fraud in connection with the sale of the Limited Partnership Interests in STB No. 1; violated Securities and Exchange Act, 15 U.S.C. Sec. 77 aa, et seq., Rule 10 b-5 promulgated by the Securities and Exchange Commission, 17 C.F.R. Sec. 240 10b-5; committed common law fraud; made negligent misrepresentations, breached their fiduciary duties and violated other New York State common laws.

Respondents contend that their sole activity with regard to the Partnership was to act as placement agent for the sale of the units and that they were not a fiduciary as alleged in the Statement of Claim. Respondents allege that the Partnership was newly formed and, therefore, had no operating history. Respondents maintain that Claimants were suitable and were adequately advised of the risks involved in the investment. Respondents assert seventeen Affirmative Defenses.

RELIEF REQUESTED

Claimants request that the panel award them damages as follows:

1. The Tamburri's - \$37,500.00, their entire investment,
 - \$7,593.50 in interest,
 - \$106,898.50 in damages for common law fraud under New York Law,
 - punitive damages,
 - attorney's fees and costs;
2. Delatore
 - \$25,000.00, the entire amount of his investment,
 - \$5,062.33 in interest,
 - \$71,265.67 in damages for common law fraud under New York Law,
 - punitive damages,
 - attorney's fees and costs.

Respondents request that the Statements of Claim be dismissed in their entirety and that Claimants be assessed forum costs and ordered to pay Respondents reasonable expenses, including attorney's fees and costs incurred in connection with the defense of these claims.

AWARD

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. The parties have also agreed to receive conformed copies of the Award while the

originals remain on file with the NASD.

After considering the pleadings, the testimony, the evidence presented at the hearing and post-hearing submissions, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Prudential-Bache Securities, Inc. and Prudential-Bache-Agriculture, Inc., are hereby jointly and severally liable to Richard and Beatrice Tamburri in the amount of Sixty Four Thousand One Hundred and Thirty Three Dollars and Fifty Cents (\$64,133.50) which includes interest from the date of purchase to the last hearing date;
2. Respondents are jointly and severally liable to Richard and Beatrice Tamburri for attorney's fees under Ohio State Law in the amount of Thirty One Thousand Five Hundred and Eighty Five Dollars and Fifty Cents (\$31,585.50);
3. Respondents are jointly and severally liable to Richard and Beatrice Tamburri for common law fraud under Ohio State Law in the amount of Ten Thousand Dollars and Zero Cent (\$10,000.00);
4. Respondents are jointly and severally liable to Richard and Beatrice Tamburri for costs in the amount of Three Thousand Dollars and Zero Cent (\$3,000.00);
5. Respondents are jointly and severally liable to Richard Delatore in the amount of Five Thousand and Sixty Two Dollars and Thirty Three Cents (\$5,062.33);
6. Delatore's claim for punitive damages is denied;
7. Delatore's claim for attorney's fees is denied;
8. Respondents' claims for attorney's fees, costs including witness fees are denied.

OTHER ISSUES

Prior to the selection of this panel and the commencement of the hearing, Claimants, Richard and Beatrice Tamburri, amended their claim to allege forgery allegations. At the hearing, Respondents moved to dismiss said claims pursuant to Section 15 of the Code of Arbitration Procedure. Subsequent to the commencement of the hearing, said Claimants moved to amend their claim to add a claim relating to the violation of Racketeer Influence and Corrupt Organization Act (RICO). Respondents objected and moved to dismiss this second amendment. The panel denied Respondents' motion as to the first amendment and denied Claimants' motion to amend the claim to include RICO violations.

During pendency of this arbitration, Respondents filed a complaint in Federal Court in the Western District of Pennsylvania. Claimants sought attorney's fees and costs of defending that action. The Court retained jurisdiction of the action pending a resolution of this matter. This panel did not consider any relief sought in the Federal action. All costs and attorneys' fees awarded herein were directly related to the pleadings filed with the NASD.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed as follows:

1. The NASD shall retain the \$1,100.00 deposit previously made by the Tamburri;
2. The NASD shall retain the \$400.00 deposit previously made by Delatore;
3. Claimants are assessed a non-refundable filing fee of \$200.00. Therefore, the Tamburris and Delatore are entitled to a refund of \$1,000.00 and \$300.00, respectively, and shall be reimbursed as outlined in the ensuing paragraph;
4. Respondents are jointly and severally assessed forum costs for ten hearing sessions at \$750.00 per session for a total of \$7,500.00. Said assessment shall be satisfied upon payment of \$1,000.00 to the Tamburris, \$300.00 to Delatore, in addition to the amounts stated in the Award section, and \$6,200.00 to the NASD.

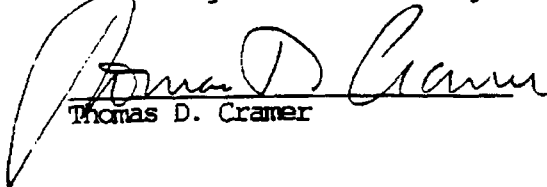
Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATION PANEL

Thomas D. Cramer

-
- Public
-

Concurring Arbitrator's Signature


Thomas D. Cramer

Date of Decision:

DATED BY NASD
AUGUST 28, 1991

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Kenneth R. Behrend, Esq.	-	Public - Chairperson
Thomas D. Cramer	-	Public
Paul H. McKenna	-	Industry

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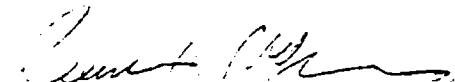
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Concurring Arbitrator's Signature


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