

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

James B. Helmer, Jr. and T & H Breeding  
Partners

90-00354

Name of Respondents

Prudential-Bache Securities Inc.  
Prudential-Bache Agriculture, Inc.

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Heard before:

Name	Public/Industry
Andrew M. Temin, Esq.	Public Arbitrator
Walter Beckjord	Public Arbitrator
W. Pat Connors	Industry Arbitrator

CASE SUMMARY

Claimants, James Helmer, Jr. and T & H Breeding Partners ("Claimants"), alleged that Respondents, Prudential-Bache Securities, Inc. and Prudential-Bache Agriculture, Inc. ("Respondents") misrepresented the risks of investing in Spendthrift Thoroughbred Breeding No. 1 Limited Partnership ("Limited Partnership"). Claimants alleged that Respondents either omitted or intentionally concealed material information concerning the Limited Partnership. Claimants alleged that Respondents failed to conduct sufficient and proper due diligence with respect to statements made in the offering documents. Claimants further alleged breach of fiduciary duty, fraud and negligence by Respondents.

Respondents denied Claimants' allegations and maintained that all material risks related to the Limited Partnership were disclosed in the offering documents. Respondents maintained that it was the placement agent for the sale of units and had no managerial responsibility for the operation of the Limited Partnership. Respondents maintained that Claimants did not rely on any material statements or omissions attributable to Respondents. Respondents maintained that Claimants were sophisticated investors who met all the qualification for the investment.

RELIEF REQUESTED

Claimants requested damages in the amount of \$100,000.00, and in the amount of \$71,265.67, with interest, plus damages under Ohio common law fraud in the amount of \$213,797.00, punitive damages, attorneys fees and costs.

Respondents requested that Claimants' claims be dismissed in their entirety, that Claimants be required to pay all filing fees and forum fees and that Claimants be order to pay Respondents its reasonable expenses, including attorneys' fees and costs.

AWARD

This claim was filed with the National Association of Securities Dealers, Inc. on February 2, 1990.

On February 25, 26, 27 and 28, 1991, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimants on January 29, 1990. Respondents did not execute a submission agreement, however, Respondents did attend the hearing and submitted answers and motions. Pursuant to Section 12(a) of the Code of Arbitration Procedure, the presiding arbitrators exercised their jurisdiction over the Respondents. The hearing was held in Cincinnati, Ohio and consisted of nine (9) sessions. The arbitration panel, having considered the pleadings, the testimony, the motions, the hearing briefs and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

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 originals remain on file with the NASD.

1. That the Claimants' claim is denied in its entirety based on the merits. The arbitrators decided not to resolve this arbitration based on the statute of limitation defense and made no determination whether that defense was a meritorious one.
2. The parties shall each bear their respective costs, including attorneys' fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$500.00 filing fee previously deposited by the Claimant.
4. Respondents are assessed forum fees in the amount of \$2,250.00 payable to the NASD, Inc. through its staff counsel in accordance with Section 43 of the Code of Arbitration Procedure. Claimants are assessed forum

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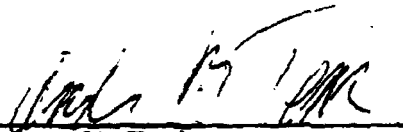
fees in the amount of \$2,250.00 but are entitled to offset this amount with the filing fee so that the amount due from the Claimants is \$1,750.00

FORUM FEES

Forum fees are assessed equally against the Respondents and the Claimants.

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

Concurring Arbitrator

  
Andrew M. Basin

Date of Decision: 4-11-91

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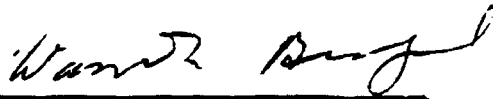
fees in the amount of \$2,250.00 but are entitled to offset this amount with the filing fee so that the amount due from the Claimants is \$1,750.00

FORUM FEES

Forum fees are assessed equally against the Respondents and the Claimants.

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

Concurring Arbitrator :



Walter Beckjord

Date of Decision: April 10, 1991

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FORUM FEES

Forum fees are ~~assessed~~ equally against the Respondents and the Claimants.

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

Concurring Arbitrator

  
W. Pat Connors

Date of Decision: April 11, 1991