

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

Gary M. Leeds

90-00660

Name of Respondent(s)

Prudential-Bache Securities Inc.  
Albert Ginsberg

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SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on March 5, 1990.

Claimant alleged, in connection with the sales and purchases of "puts" of United Airlines stocks:

- (1) violation of federal and California securities laws,
- (2) fraud,
- (3) deceit,
- (4) negligence, and
- (5) breach of fiduciary duty.

Respondents alleged that Claimant is an experienced commodities trader and aware of the risks inherent in non-equity investments, and that the allegations in the claim are false.

DAMAGES AND RELIEF REQUESTED

Claimant requested an award of damages (total loss of UAL option trades) of \$186,756.00, interest at 7% through November 28, 1990, and punitive damages of \$200,000.00.

Respondents requested that the arbitrators dismiss the claim and award to Respondents the costs of defending this action.

### DAMAGES AND RELIEF AWARDED

On November 15, 1990, a pre-hearing conference by telephone was held. On November 27, 28, and 29, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on February 26, 1990, by Respondent Prudential-Bache Securities, Inc. on May 31, 1990, and by Respondent Albert Ginsberg on July 5, 1990.

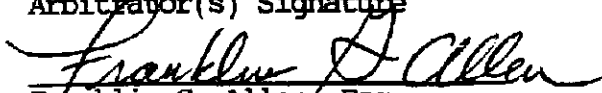
The hearing was conducted in San Diego, California and lasted five sessions. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents are liable for and shall pay to Claimant the sum of One Hundred Four Thousand Seven Hundred Forty-Five Dollars and No Cents (\$104,745.00), plus interest at the rate of 7% per annum (\$20.0881 per day) from October 24, 1989 until the award is paid in full. Said liability is joint and several.
2. Claimant's claim for punitive damages is dismissed.
3. The parties shall each bear their respective costs including attorneys' fees.
4. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$750.00 filing fee previously deposited by the Claimant as an assessment of forum fees by the arbitrators. In addition, Respondents are jointly and severally assessed fees of \$4,050.00, representing forum fees, to be paid directly to the National Association of Securities Dealers.

### OTHER ISSUES

At the hearing, Claimant made a motion for sanctions against Respondent Prudential-Bache Securities, Inc. for failure to comply with the pre-hearing conference order that it prepare and produce a computer print-out showing the trading which occurred in UAL puts in the San Diego office in October, 1989. Said motion is denied, the arbitration panel finding that Respondent made an acceptable effort between day 1 and day 2 of the hearing to produce material which constituted colorable compliance and Claimant was not prejudiced.

Arbitrator(s) Signature

  
Franklin G. Allen, Esq.

Case Served 1/14/91