

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)

Name of Claimant(s))

Joseph and Patricia Russo)

Name of Respondent(s))

Prudential-Bache Securities Inc.)
G.K. Scott & Co., Inc.)

Case No. 90-00921

Heard before the members of the Arbitration Panel:

Stephen A. LeClair, Esq.
Leslie Bishop
Harry Polansky

CASE SUMMARY

This claim was filed with the NASD, Inc., on March 29, 1990. The hearing was conducted in Fort Lauderdale, Florida on December 17, 1990, with a total of two (2) sessions.

Claimants, Joseph and Patricia Russo ("Russo"), alleged that Respondents, G.K. Scott and Company, Inc., ("Scott"), and Prudential Bache Securities, Inc., ("Pru-Bache"), as the clearing firm for Scott and custodian of IRA accounts and other funds of the Russos, through the employee and authorized agent of Scott, Scott Miller ("Miller"), made material misrepresentations of fact and omitted to state material facts; recommended and sold to the Russos unsuitable equity securities and warrants; that Scott and Pru-Bache were negligent in their supervision of Miller; and that Respondents actions constituted fraud and violated Section 517.301 Florida Statutes.

Respondents, Pru-Bache and Scott, denied all allegations of wrongdoing. Pru-Bache alleged that it was merely a clearing agent acting at the direction of Scott and that the claim fails to state a cause of action against it. Scott alleged that the trades were suitable, that no misrepresentations were made and that Claimants failed to follow Miller's advice to this detriment. Scott alleged the affirmative defenses of good faith; failure to name an indispensable party; and violation of Exchange Act Rules and NASD Rules do not give rise to a cause of action.

RELIEF REQUESTED

Claimants requested damages of \$51,000.07 plus interest of \$6,120.00 from December 17, 1989, to December 17, 1990, attorney's fees, punitive damages and costs. Respondents requested dismissal and costs.

AWARD

On December 17, 1990, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on March 19, 1990, and by Respondent, Pru-Bache, on May 8, 1990, and by Scott, on May 30, 1990. 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. The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may 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, Inc.
2. Respondent, Pru-Bache, is found not liable to the Claimants and, therefore, all claims against it are hereby dismissed.
3. Respondent, Scott, is found liable and shall pay to Claimants the amount of Eleven Thousand Eight and 00/100 (\$11,008.00) Dollars, exclusive of interest which is denied.
4. Claimants' requests for attorney's fees, punitive damages and costs are denied.
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of One Thousand and 00/100 (\$1,000.00) Dollars (2 sessions x 500.00 per session). Claimants are hereby assessed forum fees in the amount of Five Hundred and 00/100 (\$500.00) Dollars for which the National Association of Securities Dealers, Inc., shall retain Three Hundred Fifty and 00/100 (\$350.00) Dollars of the Five Hundred and 00/100 (\$500.00) Dollars previously deposited in partial satisfaction thereof. The NASD shall retain One Hundred Fifty and 00/100 (\$150.00) Dollars of that deposit as a non refundable filing fee. Respondent, Scott, is hereby assessed forum fees in the amount of Five Hundred and 00/100 (\$500.00) Dollars payable to the National Association of Securities Dealers, Inc.
6. The parties shall each bear all other costs and expenses incurred by them in connection with this proceedings.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

/s/
Stephen A. LeClair, Esq.

/s/
Leslie Bishop

/s/
Harry Polansky

Dated: December 28, 1990