

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Clement Lee

90-01736

Name of Respondent(s)

Prudential-Bache Securities Inc.  
Joseph Fisher

Heard before:

Name	Public/Industry
Marcus Gracia, Jr. _____	PUBLIC / Chair_
Maurice Arth _____	PUBLIC _____
Frank Bosl _____	INDUSTRY _____

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on June 18, 1990.

Claimants alleged that Respondents purchased stocks on margin without Claimant's knowledge or authorization; that Respondent Prudential-Bache failed to supervise Claimant's investment account and activities of Respondent Fisher; that Respondent Prudential-Bache failed to use due diligence to learn the essential facts relative to Claimant's accounts, failed to have good grounds for believing that Fisher's stock recommendations were suitable; and that Respondents violated securities laws through its misrepresentations, acts and omissions. Respondents denied each and every allegation of wrongful conduct, alleging that all transactions in Claimant's account were authorized and subsequently ratified.

RELIEF REQUESTED

Claimant requested the following damages:

1. losses in the account of \$175,000.00;
2. interest charges paid on unauthorized margin purchases of \$20,000.00;

3. commissions paid on unauthorized purchases of \$10,000.00;
4. costs and attorneys' fees;
5. punitive damages, and
6. for such other and further amounts as the panel may award and determine.

At the arbitration hearing, Claimant reduced the amount of relief requested and requested the following:

1. that Prudential-Bache and Mr. Fisher replace 7,000 shares of VLSI in Claimant's account;
2. \$50,750.00 in damages;
3. commission costs of \$14,372.25;
4. attorneys' fees of \$12,500.00;
5. costs of \$750.00;
6. loss time from work in the amount of \$1,500.00;
7. cancellation of debit balances from Claimant's account;
8. margin interest of \$1,000.00; and
9. punitive damages of at least \$50,000.00.

Respondents requested that the Statement of Claim be dismissed and that Respondents be awarded the reasonable costs of this proceeding.

#### AWARD

On February 13 and 14, 1991, in San Francisco, California, during a hearing lasting four sessions, the undersigned arbitrator(s) heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on May 29, 1990, by Carlos Ricca on behalf of Respondent Prudential-Bache Securities, Inc. on August 30, 1990, and by Respondent Joseph Fisher on August 14, 1990.

After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrator(s) has/have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Prudential-Bache is solely liable for and shall pay to Claimant the sum of One Thousand Dollars Exactly (\$1,000.00).
2. Each and every claim against Respondent Joseph Fisher 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 \$950.00 filing fee previously deposited by the Claimant as an assessment of forum fees by the arbitrators. In addition, Claimant is assessed \$1,000.00 for forum fees and Respondent Prudential-Bache is assessed \$1,950.00 for forum fees, to be paid directly to the National Association of Securities Dealers, Inc.

Maurice Arth  
Maurice Arth

Date of Decision: 3/2/91

DATE SERVED: 3/28/91