

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between	X	
	X	
Donald L. Massey	X	
Claimant	X	
	X	
vs.	X	Case #90-02060
	X	Award
PaineWebber, Inc.	X	
Prudential-Bache Securities, Inc.	X	
James A. Scherer	X	
Respondents	X	
	X	

Heard before:

Daniel E. Gulden	Public Arbitrator
Emily Grigsby	Public Arbitrator
Jack Kucera	Industry Arbitrator

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 26, 1990 Claimant Donald L. Massey alleged that in the face of the Claimant's stated financial objectives, being preservation of principal and the low risk generating of additional income, Respondent James Scherer engaged in an obvious pattern of unauthorized transactions, highly excessive transactions in high risk stock equities, churned the Claimant's account, placed the Claimant in entirely unsuitable investments and breached the fiduciary duty owed to the Claimant. The Claimant informed the arbitration panel prior to the commencement of the first hearing session that he had reached a settlement agreement with the Respondents PaineWebber, Inc. and Prudential-Bache Securities, Inc.

RELIEF REQUESTED

Claimant requested against Respondent James A. Scherer compensatory damages of \$36,235.27; punitive damages, attorneys fees of \$55,953.50 plus costs, expenses, disbursements, reimbursement of the filing fee paid and such other relief as the arbitration panel deems just and proper.

AWARD

On April 25, 1991 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant, Donald L. Massey on July 20, 1990 and by Respondent, PaineWebber, Inc. on October 15, 1990 and by Respondent Prudential-Bache Securities, Inc. on November 26, 1990 and not signed by Respondent James A. Scherer as required pursuant to Section 8 of the NASD Code of Arbitration Procedure. The Claimant was represented by Brian Smiley, Esq. of the law firm of Page & Bacek and James Bruce Richardson, Esq. The hearing was conducted at the offices of the National Association of Securities Dealers, Inc. located in Atlanta, GA and consisted of one (1) hearing session. 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:

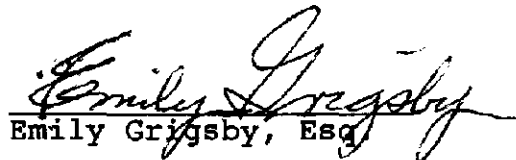
1. In accordance with Section 25 of the Code of Arbitration Procedure the Respondent James A. Scherer was served with the Statement of Claim and given an opportunity to respond which he failed to do;
2. In accordance with Section 21 and Section 26 of the Code of Arbitration Procedure the Respondent James A. Scherer was given due notice of the hearing procedure by regular and certified mail and failed to appear at the hearing;
3. In accordance with Section 29 of the Code of Arbitration Procedure, the arbitration panel determined in light of the foregoing information to proceed with the hearing as scheduled;
4. Prior to the commencement of the first hearing session the arbitration panel was informed that the Claimant had reached a settlement agreement with the Respondents PaineWebber, Inc. and Prudential-Bache Securities, Inc.;
5. The Respondent James A. Scherer be and hereby is liable and shall pay to the Claimant Donald L. Massey the sum of \$36,744.31, inclusive of interest;
6. The Respondent James A. Scherer be and hereby is liable and shall pay to the Claimant Donald L. Massey the sum of \$14,253.09 to represent punitive damages pursuant to case law in the Eleventh Circuit and Georgia statutory law cited by the Claimant's counsel.

7. The Respondent James A. Scherer be and hereby is liable and shall pay to the Claimant Donald L. Massey the sum of \$16,999.13 to represent attorney's fees incurred pursuant to Georgia case law cited by the Claimant's counsel
8. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$1,800.00 filing fee previously deposited by the Claimant.

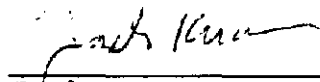
Arbitrators Signature



Daniel E. Gulden, Esq.



Emily Griggsby, Esq.



Jack Kucera

Executed on
Date of Decision: April 25, 1991

Dated: May 30, 1991