

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)

Name of Claimant(s))

J. Clark Hamilton, DDS)
Clark Hamilton, D.D.S., P.A.)

Case No. 90-02227

Name of Respondent(s))

Prudential-Bache Securities Inc.)
Quentin G. Bischoff)

REPRESENTATION

For Claimants, J. Clark Hamilton ("Hamilton") and Clark Hamilton, D.D.S., P.A. ("Hamilton P.A."): J. Thomas McKeel, Esq. of Coker, Myers, Schickel, et al.

For Respondents, Prudential Securities, Inc. ("Prudential") and Quentin G. Bischoff ("Bischoff"): Elizabeth Bevington, Esq. of Holland and Knight.

CASE INFORMATION

Statement of Claim filed: August 14, 1990. Claimants' Submission Agreement signed: July 19, 1990 by Hamilton individually and on behalf of Hamilton, P.A.

Respondents' Statements of Answer filed on February 14, 1991. Respondents' Submission Agreements signed by Bischoff on November 13, 1991, and by Kevin B. Frawley on behalf of Prudential on February 13, 1991.

HEARING INFORMATION

On November 13, and 14, 1991; January 14, 1992, in Tampa, Florida, hearings lasting six (6) sessions were conducted.

CASE SUMMARY

Claimants alleged that Respondents were liable for mishandling Claimants' Corporations Pension Plan and Profit Sharing Accounts by investing in high risk stocks, using excessive levels of margin debt and excessive trading.

Respondents denied all allegations of wrongdoing and alleged that: Claimants' trading history was largely speculative; Claimant is a sophisticated investor; and, Claimant was aware of the risks involved.

RELIEF REQUESTED

Claimants requested damages in the amount of \$100,000.00, plus costs and attorney's fees.

Respondents requested dismissal of the claim.

OTHER ISSUES CONSIDERED & DECIDED

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 original(s) remain on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Prudential and Bischoff, are found not liable and, therefore, all claims against them are hereby dismissed.
2. Claimants' requests for attorney's fees and costs are denied.

OTHER COSTS

1. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$3,000.00 (six sessions x \$500.00 per session). Claimants are hereby assessed \$3,000.00 for which the NASD shall retain the \$500.00 previously deposited in partial satisfaction thereof.

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

Concurring Arbitrators' Signatures

15/
David A. Townsend, Esq.

Public

15/
Ron Pekoe

Public

15/
Terry G. Cleaves

Industry

Date of Decision: February 20, 1992