

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Angela Barton

Claimant

and

90-02825

Brian Goldsworthy, Young, Smith & Peacock, Inc.,
and Prudential-Bache Securities, Inc.

Respondents

REPRESENTATION OF PARTIES

Claimant Angela Barton appeared and was represented by Frank Lewis, Esq. of Langerman Begam Lewis & Marks, Phoenix, Arizona.

Respondent Prudential-Bache appeared and was represented by Carlos Ricca, Esq. of Prudential-Bache, New York, New York.

Respondent Young, Smith & Peacock, Inc. appeared and was represented by Reggie Griffin of Morris & Hecker, Kansas City, Missouri.

Respondent Brian Goldsworthy appeared and was represented by Joel Hoxie, Esq. of Snell & Wilmer, Phoenix, Arizona.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about October 10, 1990, Claimant Angela Barton ("Claimant") alleged that Respondent Brian Goldsworthy ("Goldsworthy") advised the use of Claimant's funds to purchase 16,900 shares of American Southwest Mortgage Investment Corporation common stock ("ASMIC") and that the said stock was not a safe and secure investment for Claimant and did not meet Claimant's specific investment needs. Claimant further alleged that Respondent's Prudential-Bache ("PB") and Young Smith & Peacock ("YSP") underwriters of the issue, incorrectly advised registered representatives that the ASMIC investment was safe and secure for the purpose of having the representative repeat the statements to customers to induce them to purchase said shares.

Respondent Goldsworthy filed a Statement of Answer with the NASD on or about March 11, 1991 and denied the claim. Goldsworthy alleged that he never made any untrue statements of fact to Claimant nor ever omitted any material facts in order to induce Claimant to invest in said stock. Goldsworthy further alleged that he sincerely believed said stock was a suitable investment for Claimant.

Respondent Young Smith & Peacock filed an Answer with the NASD on or about April 18, 1991 and denied the allegations in the claim. Young Smith & Peacock alleged that they did not mislead their employees concerning the nature of the said stock, nor did it fail to perform due diligence concerning the issuance of said stock.

Respondent Prudential-Bache filed an Answer with the NASD on or about March 12, 1991 and denied the allegations of the claim. Prudential-Bache alleged that they had no personal business contact with Claimant at any time, and that they were only the underwriter.

RELIEF REQUESTED

Claimant requested actual damages in the amount of \$500,000, exemplary damages, treble damages, attorney's fees plus costs.

Respondent Young Smith & Peacock requested that the claim be denied. Respondent Brian Goldsworthy requested that the claim be denied. Respondent Prudential-Bache requested that the claim be dismissed and that costs be assessed against Claimant.

OTHER ISSUES

At the hearing, Respondent Prudential-Bache motioned to dismiss the claim which the panel took under advisement.

PROCEDURAL MATTERS

On October 30, 1991, October 31, 1991, November 25, 1991, and November 26, 1991 in Phoenix, Arizona during a hearing lasting a total of nine sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on October 10, 1990 by Claimant Angela Barton, on May 28, 1991 by Michael Cooney on behalf of Respondent Young, Smith, & Peacock, Inc., on March 12, 1991 by Kevin Frawley on behalf of Prudential-Bache Securities, Inc., and on March 11, 1991 by Respondent Brian Goldsworthy.

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.

AWARD

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, and the post-hearing submissions of the parties, has decided in full and final resolution of the issues submitted for determination as follows:

1. The Claim against Respondent Prudential-Bache Securities, Inc. shall be and hereby is dismissed;

2. Respondents Brian Goldsworthy and Young Smith & Peacock, Inc. are liable, jointly and severally, and shall pay to the Claimant Angela Barton actual damages in the amount of \$20,000;

3. No accrued interest shall be awarded;

4. Each party shall bear their own costs and expenses of the arbitration, including attorney's fees, other than those costs specifically enumerated herein;

5. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the non-refundable filing fee in the amount of \$200.00 and shall retain the hearing session deposit in the amount of \$750 previously deposited with the NASD by the Claimant. Claimant shall pay to the NASD additional forum fees in the amount of \$6000.

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

Dated:

December 23, 1991

/s/ Thomas F. Tobin, Esq.
Presiding Chair
Public Arbitrator

December 23, 1991

/s/ Sidney W. Mandel
Public Arbitrator

December 23, 1991

/s/ Dave Dove
Industry Arbitrator

Award served on December 27, 1991