

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

JAMES R. TANNER
CYNTHIA J. TANNER

Claimant

NASD NO. 90-02916

and

PRUDENTIAL-BACHE SECURITIES, INC. n/k/a
PRUDENTIAL SECURITIES, INC.
CHARLES R. REID

Respondents

REPRESENTATION OF PARTIES

Claimants James R. Tanner and Cynthia J. Tanner were represented by Michael P. Bishop, Esq. of Bishop, Smith & Bishop, Indianapolis, Indiana.

Respondent Prudential Bache Securities, Inc. (n/k/a Prudential Securities Inc.) and Charles R. Reid were represented by Kimberly Unger, Esq. of Prudential Securities, Inc.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on October 18, 1990, Claimants James R. Tanner and Cynthia J. Tanner ("Tanner") alleged that Respondent Charles R. Reid, ("Reid") while employed by or acting as an agent of Respondent Prudential Bache Securities, Inc., now known as Prudential Securities, Inc. ("Prudential"), placed the Tanners into an unsuitable investment in NAL Corporation Put Options in September of 1989 by misrepresenting the status of a pending tender offer for UAL Corporation. In addition, the Tanners allege that Respondents engaged in the improper management of the account. Based upon these allegations, the Tanners' asserted violations of federal and state securities law, breach of the fiduciary obligation owed to the Tanners' by Respondents, breach of contract and fraud.

In a Statement of Answer filed with the NASD in February 11, 1991, Respondents Prudential Bache Securities, Inc. and Charles Reid denied the material allegations of the statement of claim, alleging that Claimants were fully informed of the risks of option trading and signed an option agreement, fully authorized the trade at issue and that the Claimants suffered a loss due primarily to adverse market conditions. Respondents further alleged that Claimants were educated, wealthy and intelligent investors who understood and were suitable to conduct option trading in their account. The Respondents asserted the following affirmative defenses:

1. Respondents acted properly and in good faith with respect to Claimants' account;
2. Claimants had prior investment experience and the sophistication necessary to understand the risks associated with the transaction;
3. Claimant's account was handled properly in accordance with all applicable rules and regulations;
4. Any losses sustained are attributable to market conditions and Claimant's investment decisions;
5. The losses were proximately caused by Claimant's agreement to assume the risk of loss;
6. The claim is barred by the applicable Statutes of Limitations.

RELIEF REQUESTED

Claimants James R. Tanner and Cynthia J. Tanner requested entry of an award against Respondents in the sum of \$59,437.50, plus commissions and margin interest; for interest on the full amount of damages; punitive damages; reasonable attorneys' fees and costs.

Respondents Prudential Bache Securities, Inc. and Charles Reid requested that the Statement of Claim be dismissed and denied in its entirety, and that costs be awarded in their favor.

PROCEDURAL MATTERS

On July 24, 1991 in Indianapolis, Indiana during a hearing lasting a total of two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on October 15, 1990 by Claimants James R. Tanner and Cynthia J. Tanner, on February 11, 1991 by Kimberly Unger, Esq. on behalf of Respondent Prudential Bache Securities, Inc. and on January 7, 1991 by Respondent Charles R. Reid.

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

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

1. The Statement of Claim is hereby dismissed and denied in its entirety;
2. All parties shall bear their own costs of arbitration, including attorneys' fees, except for those specifically enumerated

3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$150.00 claim filing fee and the hearing session deposit in the amount of \$500.00 previously deposited with the NASD by the Claimants James R. Tanner and Cynthia J. Tanner. Respondent Prudential Bache Securities, Inc. now known as Prudential Securities, Inc. is liable for and shall pay to the NASD additional forum fees in the amount of \$500.00.

July 24, 1991

Theodore C. Willoughby
Public Arbitrator

July 24, 1991

S/S Michael H. Kelley
Industry Arbitrator