

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between )

Name of Claimant(s) )

Jon Channing and Ellen Channing Jtwos )

Name of Respondent(s) )

Prudential-Bache Securities Inc. )

Robert D. Child )

Case No. 90-03486

REPRESENTATION

For Claimants, Jon and Ellen Channing ("the Channings"): Robert Levine, Esq. of Floyd, Pearson, Richman, et al.

For Respondents, Prudential-Bache Securities, Inc. ("Prudential") and Robert Child ("Child"): Sara Soto, Esq. of Fowler, White, Burnett, et al.

CASE INFORMATION

Statement of Claim filed: December 12, 1990. Claimants' Submission Agreement signed: November 1, 1990.

Respondents' Statement of Answer filed: March 7, 1991. Respondents' Submission Agreement signed: March 22, 1991 by Child, and March 22, 1991 by Noah Sorkin, Esq. on behalf of Prudential.

HEARING INFORMATION

On November 5 and 6, 1991; July 1, 2, 3 and 7, 1992, in Fort Lauderdale, Florida, hearings lasting 14 sessions were conducted.

CASE SUMMARY

Claimants alleged that Respondents were liable for breach of fiduciary duty, breach of contract, and fraud. Claimants alleged that Child recommended that they engage in options trading but failed to explain the risks involved therein; Child engaged in uncovered options trades rather than covered options which he had represented could be used as a hedge; Child failed to advise Claimants that they were on margin and, engaged in unauthorized trading in Claimants' account.

90-03486 Award:

Respondents denied all allegations of wrongdoing and alleged that Mr. Channing wanted to engage in speculative arbitrage stocks; Claimants were advised of the various options strategies available and the risks involved therein; Claimants failed to timely complain of the transactions; and, all trades were conducted with Claimants' authorization and approval.

RELIEF REQUESTED

Claimants requested damages in the amount of \$262,000.00, plus margin interest of \$4,800.00, plus punitive damages, interest, costs and attorney's fees.

Respondents requested dismissal of the claim plus costs and expenses.

OTHER ISSUES CONSIDERED & DECIDED

1. 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

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

1. Respondents, Prudential and Child, are found liable, jointly and severally, and shall pay to the Claimants the amount of \$72,000.00, plus interest at the legal rate of 12% per annum from October 18, 1989 to July 9, 1992 in the amount of \$19,055.34 for a total due to the Claimants of \$91,055.34.
2. Claimants' request for attorney's fees, costs and punitive damages is denied.
3. Respondents' request for costs and expenses is denied.

OTHER COSTS

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

90-03486 Award:

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$10,500.00 (14 sessions x \$750.00 per session).
2. Respondents, Prudential and Child, are hereby assessed \$10,500.00, jointly and severally, \$750.00 of which shall be paid directly to the Claimants, and \$9,750.00 of which shall be paid to the National Association of Securities Dealers, Inc.
3. The NASD shall retain the non-refundable filing fee of \$200.00 paid by the Claimants.
4. The NASD shall retain the session deposit of \$750.00 paid by Claimants in partial satisfaction of such forum fees.

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

Concurring Arbitrators' Signatures

/s/  
Robert Herschmann, Esq.

Public

/s/  
Virginia Rhyna

Public

Date of Decision: August 12, 1992