

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

C.A. and Claris McCallson

vs.

NASD #91-00791

Name of Respondents

Prudential-Bache Securities, Inc.

James Darden

A.G. Edwards & Sons, Inc.

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REPRESENTATION

For Claimants: Archibald M. Mull III, Esq., Old Sacramento, California

For Respondents Prudential-Bache Securities, Inc. and James Darden: Michael J. Lawson, Esq., Steefel, Levitt & Weiss, San Francisco, California

For Respondent A.G. Edwards & Sons, Inc.: Jeff Jamieson, Esq., A.G. Edwards & Sons, Inc., St. Louis, Missouri

CASE INFORMATION

Statement of Claim filed: March 13, 1991

Claimants' Submission Agreement signed: February 25, 1991

Statements of Answer filed by Respondents:

Prudential-Bache Securities, Inc. and James Darden: May 14, 1991

A.G. Edwards & Sons, Inc.: August 18, 1991

Respondents' Submission Agreements signed:

Prudential-Bache Securities, Inc.: May 15, 1991

A.G. Edwards & Sons, Inc.: August 16, 1991

James Darden: None signed, but he did file an Answer and appeared at the hearing, and is subject to the jurisdiction of the National Association of Securities Dealers (NASD), in accordance with Section 12 of the NASD Code of Arbitration Procedure.

HEARING INFORMATION

Prehearing Conference Date/Sessions: March 27, 1992 - one session

Hearing Date/Sessions: April 14, 1992 - two sessions  
April 15, 1992 - two sessions  
April 16, 1992 - two sessions  
April 17, 1992 - one session  
August 10, 1992 - two sessions  
August 11, 1992 - two sessions

Hearing Location: San Francisco, California

#### CASE SUMMARY

Claimants alleged lack of suitability, excessive trading, fraud, negligence, failure to properly supervise, Racketeer-Influenced and Corrupt Organization Act violations (withdrawn), breach of fiduciary duty and trust, and intentional and/or negligent infliction of emotional distress in the purchase of unspecified securities in their accounts. Claimants were allowed to amend their claim on August 10, 1992, to include unauthorized trading.

Respondents A.G. Edwards & Sons, Inc., James Darden and Prudential-Bache Securities, Inc. denied all substantive allegations of the Statement of Claim.

Respondent A.G. Edwards & Sons, Inc. asserted a counterclaim for attorneys' fees and other expenses.

Respondents Prudential-Bache Securities, Inc. and James Darden settled the arbitration with Claimants on August 10, 1992, for claims arising out of the time James Darden was employed at Prudential-Bache Securities, Inc.

#### RELIEF REQUESTED

Claimants requested:

1. Unspecified compensatory damages;
2. Interest at the legal rate;
3. Punitive damages; and
4. Attorneys' fees and costs.

Respondent A.G. Edwards & Sons, Inc. requested attorneys' fees and expenses.

#### 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 originals remain on file with the NASD.

AWARD

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

1. Respondents A.G. Edwards & Sons, Inc. and James Darden are jointly and severally liable for and shall pay Claimants \$160,000.00 in compensatory damages;
2. All other claims, including the one for punitive damages, are denied;
3. The parties shall each bear their respective costs including attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall refund the \$750 hearing session fee previously deposited by the Claimants. Forum Fees are assessed against A.G. Edwards & Sons, Inc. and Prudential-Bache Securities, Inc. only, for \$7,800.00, to be divided equally between A.G. Edwards & Sons, Inc. and Prudential-Bache Securities, Inc., and are calculated as follows: 11 sessions times \$750/session equals \$8,250.00, plus \$300.00 for prehearing equals \$8,550.00, minus \$750.00 for assessment by arbitrators of forum fees less one session, equals \$7,800.00.

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

ARBITRATION PANEL

Name

Public/Industry

Signatures

Industry Arbitrator

Public Arbitrator

Public Arbitrator

  
David H. Brazil

DATE SERVED: 09/18/92

Date of Decision: \_\_\_\_\_