

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between

Name of Claimants

Sara T. Henry  
Sara T. Henry as Executrix  
of the Estate of Arden F. Henry

91-00855

Name of Respondents

Prudential Bache Securities, Inc.  
Leo H. Cook

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REPRESENTATION

For Claimants: Frank W. Virgin of the law firm of Slaughter & Virgin,  
P.C.

For Respondents: Paul W. Stivers, Esq. of the law firm of Rogers & Hardin.

CASE INFORMATION

Statement of Claim filed on: March 15, 1991.

Claimant Sara T. Henry's Submission Agreement signed on: March 30, 1991.

Sara T. Henry as Executrix of the Estate of Arden F. Henry's Submission  
Agreement signed on: November 6, 1991.

Joint Statement of Answer filed by Respondents on: June 6, 1991.

Respondent Prudential Bache Securities, Inc.'s Submission Agreement signed  
on: February 12, 1992.

Respondent Leo H. Cook's Submission Agreement signed on: November 7, 1991.

HEARING INFORMATION

Hearing Dates/Sessions: November 6, 1991, 2 Sessions.  
November 7, 1991, 2 Sessions.  
January 16, 1992, 2 Sessions.  
January 17, 1992, 3 Sessions.

Hearing Location: Atlanta, GA.

CASE SUMMARY

Claimants alleged that Respondents committed fraudulent and manipulative practices which included directing and effecting excessive trades in the accounts and churning said accounts for the primary purpose of producing substantial amounts of commissions & making and effecting unsuitable transactions and executing purchases on margin. The Claimants further alleged Respondents acts constituted breach of contract, breach of fiduciary duty and violations of the rules and regulations of the NASD and various markets.

Respondents maintained that the accounts were not churned and no activities took place in the Claimants' accounts without the knowledge consent and authorization of the Claimants and many of the stock positions purchased by Claimants were sold at a profit and very often the commissions charged for the sale side of certain transactions were either completely eliminated or substantially reduced for Claimants. Respondents further maintained "safety of principal" was not the sole investment objective of Claimants and Claimants sought many investment goals over time. Respondents further maintained margin accounts were expressly approved by the Claimants and Respondent Leo H. Cook maintained an ongoing course of communication and contact with Claimants, explaining in detail the reasons for every recommendation and presenting both the pros and cons of any contemplated purchase or sale and all of the positions and securities were suitable to the investment needs and financial objectives of Claimants.

RELIEF REQUESTED

Claimants requested damages of \$1,175,663.00, punitive damages, costs and expenses including reasonable attorneys' fees, prejudgment interest and such other relief as the arbitration panel deems appropriate.

Respondents requested that the claim be denied in its entirety and counterclaimed for all costs and expenses associated with the defense of the action.

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. The Respondent Prudential Bache Securities, Inc. be and hereby is liable and shall pay to the Claimants the sum of \$259,437.00, inclusive of interest.

2. The Respondent Leo H. Cook be and hereby is liable and shall pay to the Claimants the sum of \$9,500.00, inclusive of interest.
3. The Claimants' request for punitive damages is denied.
4. Each party shall bear their respective costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

\$1,000.00 X 9 Sessions = \$9,000.00 minus hearing session  
deposit of \$1,000.00 = net \$8,000.00 due.

The Claimants be and hereby are liable and shall pay to the NASD the sum of \$3,500.00 to represent forum fees and the Respondent Prudential Bache Securities, Inc. be and hereby is liable and shall pay to the NASD the sum of \$4,500.00 to represent forum fees.

The NASD shall retain the \$250.00 claim filing fee previously deposited by the Claimants.

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

CONCURRING ARBITRATORS' SIGNATURE

  
Wimmie P. Parnell, Esq.

Public Arbitrator

  
Chris S. Guerin

Industry Arbitrator

  
Harriet H. Harris, Esq.

Public Arbitrator

Date of Decision: 3/9/92