

9207072

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Joanne Marinelli
Joseph V. and Marie T. Carone
Billie J. Chez

Consolidated No.s

91-00921

91-00922

91-00924

Name of Respondent/Third Party Claimant

Stephen Browere

Name of Third Party Respondent

Prudential Securities, Inc.
d/b/a Prudential-Bache Capital Funding

REPRESENTATION OF PARTIES

Claimants, Joanne Marinelli, Billie J. Chez, and Joseph V. and Marie T. Carone appeared pro se.

For Respondent: Stephen Browere appeared pro se.

CASE INFORMATION

Statement of Claim filed by Joanne Marinelli on: March 20, 1991.

Claimant's Submission Agreement signed on: March 13, 1991.

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Statement of Answer filed by Respondent, Stephen Browere on:
April 29, 1991.

Respondent Stephen Browere's Submission Agreement signed on:
April 24, 1991.

Amended Statement of Claim filed on: September 6, 1991.

Statement of Claim filed by Joseph V. and Marie T. Carone on:
March 20, 1991.

Claimants' Submission Agreement signed on: March 13, 1991.

Statement of Answer filed by Respondent, Stephen Browere on:
May 17, 1991.

Respondent Stephen Browere's Submission Agreement signed on:
April 24, 1991.

Third Party Claim filed by Stephen Browere on: August 30, 1991.

Amended Statement of Claim filed on: September 6, 1991.

Answer to the Third Party Claim and Request of Dismissal filed by
Prudential Securities, Inc. on: June 2, 1992.

Statement of Claim filed by Billie J. Chez on: March 20, 1991.

Claimant's Submission Agreement signed on: March 13, 1991.

Statement of Answer filed by Respondent, Stephen Browere on or
about: May 17, 1991.

Third Party Claim filed by Stephen Browere on: August 30, 1991.

Amended Statement of Claim filed on: September 6, 1991.

Answer to the Third Party Claim and Request of Dismissal filed by
Prudential Securities, Inc. on: June 2, 1992.

HEARING INFORMATION

Hearing date: July 13, 1992. Two (2) sessions.

Hearing Location: Chicago, Illinois.

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CASE SUMMARY

Claimant, Joanne Marinelli ("Marinelli") alleged unsuitability, misrepresentations and omissions by respondent Stephen Browere ("Respondent") relating to transactions in the following securities: Kemper Multi Market Income Trust, a closed-end junk bond; Chevron Capital Bonds; Putnam Managed Municipal Bonds; and Common Goal Limited Partnership. Marinelli also alleged that most of the investments were much too risky for her concerns about safety of principal, and that she was an unsophisticated investor. Marinelli further alleged that Respondent was informed of her safety concerns. Marinelli went on to allege that Respondent led her to believe all of the investments he made were safe and secure.

In his Statement of Answer, Respondent denied each and every allegation contained in the Statement of Claim. Respondent asserted that Marinelli had received a prospectus for each and every investment that had been made, and that Marinelli had understood the investments and investment strategies presented to her by Respondent. Respondent further alleged that the nature and risks of the investments had been presented to Marinelli prior to the investments had been made. Respondent asserted that the investments were suitable for Marinelli.

Marinelli's Amended Claim only reflected an amendment to the damages requested from the Respondent.

Claimants, Joseph V. and Marie T. Carone (the "Carones") alleged unsuitability, unauthorized transactions, misrepresentations and omissions by respondent Stephen Browere ("Respondent") relating to transactions in the following securities: Common Goal Limited Partnership; Enx Oil & Gas Limited Partnership; Hall South Fork Limited Partnership; Humboldt Midwestern Gas Limited Partnership; and VMS Mortgage Investment Limited Partnership. The Carones also alleged that most of the investments were much too risky for their concerns about safety of principal, and that they were unsophisticated investors. The Carones further alleged that Respondent was informed of their safety concerns. The Carones went on to allege that Respondent led them to believe all of the investments he made were safe and secure. Lastly, the Carones alleged that Respondent had them in investments that, at the time they were made, they were unaware of, and that did not meet their investment objectives.

For his Statement of Answer, Respondent denied each and every allegation contained in the Statement of Claim. Respondent asserted that the Carones had received a prospectus for each investment that had been made, and had understood the investments

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and investment strategies presented to her by Respondent. Respondent further alleged that the Carones had agreed to the various investments prior to their having been made. Respondent asserted that the investments were suitable for the Carones.

The Carones' Amended Claim only reflected an amendment to the damages requested from the Respondent.

For his Third Party Claim, Respondent alleged that Prudential Securities, Inc. d/b/a Prudential-Bache Capital Funding ("PSI") withheld material information concerning the VMS Mortgage Investment Fund.

In its Answer to the Third Party Claim and request of Dismissal, PSI affirmatively denied any allegation that it wrongfully withheld information concerning the VMS Mortgage Investors Limited Partnership. PSI requested dismissal of Respondent's claimed for the following two reasons:

1. Respondent's claim against PSI is expressly barred by an order entered by the United States District Court for the Northern District of Illinois.

2. PSI was not a selling agent for the offering of the VMS Mortgage Investors Limited Partnership, and therefore, it owed no duty of disclosure to Respondent.

Claimant, Billie J. Chez ("Chez") alleged unsuitability, unauthorized transactions, misrepresentations and omissions by respondent Stephen Browere ("Respondent") relating to transactions in the following securities: VMS Mortgage Investment Limited Partnership; TWA Senior Note; Kemper Government Bond; Delaware Hi Yield Bond; Enx Oil & Gas Limited Partnership and Jacques Miller Healthcare Limited Partnership. Chez also alleged that most of the investments were much too risky for her concerns about safety of principal, and that she was an unsophisticated investor. Chez further alleged that Respondent was informed of her safety concerns. Chez went on to allege that Respondent led her to believe that all of the investments he made were safe and secure. Lastly, Chez alleged that Respondent had her in investments that did not meet her investment objectives.

For his Statement of Answer, Respondent denied each and every allegation contained in the Statement of Claim. Respondent asserted that Chez had received a prospectus for each investment that had been made, and had understood the investments and investment strategies presented to her by Respondent. Respondent further alleged that Chez had agreed to the various

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investments prior to their having been made. Respondent asserted that the investments were suitable for Chez. Chez's Amended Claim only reflected an amendment to the damages requested from the Respondent.

For his Third Party Claim, Respondent alleged that Prudential Securities, Inc. d/b/a Prudential-Bache Capital Funding ("PSI") withheld material information concerning the VMS Mortgage Investment Fund.

In its Answer to the Third Party Claim and request of Dismissal, PSI affirmatively denied any allegation that it wrongfully withheld information concerning the VMS Mortgage Investors Limited Partnership. PSI requested dismissal of Respondent's claimed for the following two reasons:

1. Respondent's claim against PSI is expressly barred by an order entered by the United States District Court for the Northern District of Illinois.

2. PSI was not a selling agent for the offering of the VMS Mortgage Investors Limited Partnership, and therefore, it owed no duty of disclosure to Respondent.

RELIEF REQUESTED

Marinelli requested an award of \$6,792.00 against Respondent.

The Carones requested an award of \$44,700.00 against Respondent.

Chez requested an award of \$44,477.70 against Respondent.

Respondent requested that each of the Statement of Claims be denied and dismissed in their entirety.

In his Third Party Claim, Respondent requested an award of \$30,000.00, and reimbursement of all costs against PSI.

In their Amended Statement of Claims, Marinelli, the Carones, and Chez requested that: Respondent be made financially responsible for any filing fees incurred for their claims; Respondent be made financially responsible for any attorney's fees; and that

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Respondent be made financially responsible for any wages lost by any or all witnesses needed to prove Respondent's wrongdoing.

OTHER ISSUES CONSIDERED & DECIDED

On September 23, 1991, Respondent filed a Motion to Dismiss the above-captioned arbitrations. After reviewing the Motion and responses, and deliberation, the undersigned panel denied the Motions to Dismiss.

On May 29, 1992, PSI filed its Answer to the Third Party Claim, and also a request for Dismissal. After review of the Answer/Motion to Dismiss and responses, and deliberation, the undersigned arbitrators granted the Motion to Dismiss the Third Party Claim.

On June 15, 1992, Respondent filed a Motion to Dismiss the claims of the Carones and Chez relating to transactions in VMS Mortgage Investors Limited Partnership. After review of the Motion and any responses, the panel took the Motion to Dismiss under advisement to be heard at the hearing on these matters.

The parties have agreed that the Award in this matter may be executed by 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

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. Respondent, Stephen Browere's Third Party Claim against Prudential Securities, Inc. d/b/a/ Prudential-Bache Capital Funding is hereby denied and dismissed with prejudice.

2. Respondent, Stephen Browere's Motion to Dismiss the VMS Mortgage Investment Limited Partnership claims contained in the Statement of Claims of Joseph V. and Marie T. Carone, and Billie

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J. Chez is hereby denied and dismissed with prejudice.

3. Respondent, Stephen Browere, is liable for, and shall pay to Claimants, Joseph V. and Marie T. Carone, the sum of \$25,857.50 as satisfaction of their claims herein.

4. Respondent, Stephen Browere, is liable for, and shall pay to Claimant, Billie J. Chez, the sum of \$26,391.56 as satisfaction of her claims herein.

5. Respondent, Stephen Browere, is liable for, and shall pay to Claimant, Joanne Marinelli, the sum of \$2,176.39 as satisfaction of her claims herein.

OTHER COSTS

6. Each party shall bear their own costs of this arbitration, including attorneys' fees, except as set forth below.

FORUM FEES

Pursuant to Section 43 (c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

2 hearing sessions X \$500.00 = \$1,000.00

Pursuant to Section 43 (c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$75.00, and shall refund one-half (1/2) of the \$200.00 hearing session deposit previously paid to the NASD by Claimant, Joanne Marinelli.

Pursuant to Section 43 (c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$120.00, and shall refund one-half (1/2) of the \$400.00 hearing session deposit previously paid to the NASD by Claimants, Joseph V. and Marie T. Carone.

Pursuant to Section 43 (c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$120.00, and shall refund one-half (1/2) of the \$400.00 hearing session deposit previously paid to the NASD by the Claimant, Billie J. Chez.

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Pursuant to Section 43 (c) of the Code of Arbitration, the NASD shall retain the nonrefundable third party claim filing fee in the amount of \$500.00 previously paid to the NASD by Respondent, Stephen Browere.

Additional forum fees in the amount of \$500.00 are assessed against Respondent Stephen Browere.

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

CONCURRING ARBITRATORS

Dated:

July 16, 1992

/s/George T. Donohue, Jr.
George T. Donohue, Jr.
Presiding Chair
Public Arbitrator

July 16, 1992

/s/Anne J. Crane
Anne J. Crane
Public Arbitrator

July 15, 1992

/s/Kathleen A. Wieland
Kathleen A. Wieland
Industry Arbitrator

Date of Service by the NASD:

7/20/92