

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Ann D. Rendleman Loper

Case No. 91-01843

Name of Respondent(s)

Prudential-Bache Securities Inc.
James E. Betts

REPRESENTATION

For Claimant, Ann Rendleman Loper ("Rendleman"): David McDonald.

For Respondents, Prudential Securities, Inc. ("Prudential") and James Betts ("Betts"): Gary Klein, of Esq. of Prudential.

CASE INFORMATION

Statement of Claim filed on: June 13, 1991. Claimant's Submission Agreement signed on: June 5, 1991.

Respondents' Statement of Answer filed on: October 15, 1991. Respondents' Submission Agreement signed on: March 9, 1993 by Betts.

Respondent, Prudential, did not sign a Submission Agreement as required by Sections 12 and 25 of the Code. ("see Other Issues")

HEARING INFORMATION

on March 5, 1993, in Raleigh, North Carolina, a pre-hearing conference lasting one session was conducted via telephone conference call with an arbitrator.

On March 9, 1993 and April 23, 1993, in Raleigh, North Carolina, hearings lasting four sessions were conducted.

CASE SUMMARY

Claimant alleged that Respondents were liable for: breach of contract; breach of fiduciary duty; violation of the Securities Exchange Act of 1934; and, violation of the North Carolina Unfair and Deceptive Trade Practices Act. Claimant alleged that: Respondents purchased options on margin and churned the accounts; the purchases of options and other securities were unsuitable for Claimant; and, Respondents failed to advise Claimant of the risks involved.

Respondents denied all allegations of wrongdoing and alleged that: Claimant was advised of the risks; Claimant was suitable for the transactions; Claimant authorized all trades; there was no churning or breach of any duties; the account was handled with due care; and, the arbitrators are without authority to award punitive damages.

Respondents alleged the affirmative defenses of: authorization; ratification; the investments were in accord with Claimant's investment objectives; any losses are attributable to market conditions; waiver; estoppel; statute of limitations; failure to state a claim; and, failure to mitigate damages.

RELIEF REQUESTED

Claimant requested damages in the amount of \$44,000, plus interest, costs, attorney's fees, and punitive damages in excess of \$10,000.

Respondent requested dismissal of the claim plus costs.

OTHER ISSUES CONSIDERED & DECIDED

1. This Panel finds that Prudential was required to sign a Submission Agreement pursuant to Section 12 of the NASD Code of Arbitration Procedure, Prudential being an NASD member firm.
2. 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

1. 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:
2. Respondents, Prudential and Betts, are found liable, jointly and severally, and shall pay to the Claimant the amount of \$20,003.56 inclusive of interest.
3. Claimant's request for attorney's fees, costs, and punitive damages is denied.

4. Respondents' request for costs is denied.

OTHER COSTS

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

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$2,300 (one pre-hearing conference x \$300 plus four sessions x \$500 per session).
2. Respondents, Prudential and Betts, are hereby assessed \$2,300 jointly and severally, \$500 of which shall be paid directly to the Claimant, and \$1,800 of which shall be paid to the National Association of Securities Dealers, Inc.
3. The NASD shall retain the non-refundable filing fee of \$150 paid by the Claimant.
4. Respondents shall jointly and severally reimburse the Claimant \$150 for the non refundable filing fee.

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

Concurring Arbitrators' Signatures

/s/
Thomas G. Douglass, Esq.

Public

/s/
Stanley V. Lewis

Public

/s/
Thomas C. Borthwick

Industry

Date of Decision: June 2, 1993