

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Donald E. Morrisette

v

Prudential Bache Securities, Inc.
James P. Mendenhall

NASD Arbitration
No.91-02096

Name of Respondent(s)

REPRESENTATION

For Claimant: Carl H. Hagens, Esq. of Betts Patterson & Mines, PC

For Respondents: Kevin B. Hurley, Esq., Assoc. General Counsel, Prudential Securities Incorporated.

CASE INFORMATION

Statement of Claim filed: July 8, 1991

Claimant's Submission Agreement signed on: July 1, 1991

Joint Statement of Answer filed by Respondents, on: November 25, 1991

Respondent, James P. Mendenhall's Submission Agreement signed on: November 5, 1991

Respondent, Prudential Securities, Incorporated's Submission Agreement signed on May 18, 1992

HEARING INFORMATION

Pre-Hearing Conference: None

Hearing Dates/Sessions: June 2, 1992 - Two Sessions
June 3, 1992 - Two Sessions
June 4, 1992 - Two Sessions

Hearing Location: Seattle, Washington

CASE SUMMARY

Claimants, Donald E. Morrisette (Morrisette) alleged that Respondents, James P. Mendenhall (Mendenhall) and Prudential Securities (PS), excessively traded stocks of low quality and high risk and said frequency of trades constituted a pattern of high risk, unsuitable investing for Claimant. Claimant alleged that trading was unsuitable because it was contrary to Morrisette's investment objective of long-term growth and of letting the funds grow undisturbed until they would be needed for Morrisettes basic needs. It is also alleged that said trading of stocks lacked economic purpose and was motivated by a desire to generate commissions.

Respondents, answering jointly, alleged that Morrisette is a sophisticated, aggressive and informed investor who kept abreast of the market and clearly made all his own investment decisions while conversant with all attendant risks. It is also alleged that claimant was at all times aware of and controlled all activity in his account.

RELIEF REQUESTED

Claimants requested an award in favor of Claimant under the federal and state securities claims for all damages sustained by Claimant, including the return of his entire investment, lost profits, interest, costs and statutory attorneys' fees, treble damages under Washington State's Consumer Protection Act, damages sustained due to negligence and breach of fiduciary duty and emotional distress damages which exceed \$200,000.00.

Respondents requested dismissal of the claim in its entirety.

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 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. Respondents, Prudential-Bache Securities, Inc., and James P. Mendenhall, are jointly and severally liable and shall pay to Claimant, Donald E. Morrisette, the sum of Two Hundred Sixty Four Thousand, Five Hundred Dollars and No Cents (\$264,500.00).
2. The parties shall each bear their respective costs and fees including attorneys' fees.
3. Respondents' motion for dismissal of the claim is denied.
4. No interest is awarded.

FORUM FEES

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

Claimant, Donald E. Morrisette, is assessed forum fees in the sum of \$2,000.00, representing one-half of six sessions at \$1,000.00 each less the previously deposit of \$1,000.00.

Respondents, Prudential-Bache Securities, Inc. and James P. Mendenhall are jointly and severally assessed forum fees in the sum of \$3,000.00, representing one-half of six sessions at \$1,000.00 each.

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

ARBITRATORS

Name

Public/Industry

Herbert H. Friese, Esq.

Public Arbitrator

Joseph L. Crowe, Jr.

Public Arbitrator

Thomas E. McCulloch

Industry Arbitrator

Concurring Arbitrators' Signatures

Herbert H. Friese

Herbert H. Friese, Esq.

DATE SERVED: 07/20/92

Joseph L. Crowe, Jr.

Thomas E. McCulloch

Date of Decision: 7-13-92