

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)

Name of Claimant(s))

Jules Golden Revocable Trust)

Case No. 91-02377

Name of Respondent(s))

Prudential-Bache Securities Inc.)

Stephen Kahane)

REPRESENTATION

For Claimant, Jules Golden Revocable Trust ("Golden"): Jules Golden.

For Respondent, Prudential Securities, Inc. ("Prudential") and Stephen Kahane ("Kahane"): David Burns, Esq. of Prudential Securities, Inc.

CASE INFORMATION

Statement of Claim filed: August 2, 1991 and amended January 22, 1992.
Claimant's Submission Agreement signed: July 29, 1991.

Respondents' Statement of Answer filed: September 10, 1991 and amended February 5, 1992. Respondents' Submission Agreements signed by Kahane on September 4, 1991, and by Carlos Ricca on behalf of Prudential on September 6, 1991.

HEARING INFORMATION

On May 19, 1992, in Fort Lauderdale, Florida, a hearing lasting two (2) sessions was conducted.

CASE SUMMARY

Claimant alleged that Respondents were liable for breach of fiduciary duty and for misrepresenting the safety of a certain mutual fund. Claimant alleged that Kahane failed to deliver a prospectus prior to Claimant's purchase of Prospect Street High Income Portfolio; the fund was not suitable for Claimant in light of his investment objectives and Respondents committed fraud by failing to inform Claimant that the fund consisted mostly of junk bonds.

Respondents, denied all allegations of wrongdoing and alleged that Claimant received a prospectus prior to investing; Kahane informed him that the fund consisted mostly of junk bonds; Claimant is a sophisticated investor; there was no fraud or misrepresentation; and there is no legal basis for an award of punitive damages.

Respondents alleged the affirmative defenses of laches; estoppel; ratification and statutes of limitations.

RELIEF REQUESTED

Claimant initially requested actual damages in the amount of \$14,717.87, plus punitive damages of \$85,000.00 which he later amended to \$30,000.00, in actual damages, plus punitive damages of \$4,750,000.00, plus treble damages of \$90,000.00, and such other relief as the Panel deems appropriate.

Respondents requested dismissal of the claim plus costs.

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 arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Prudential and Kahane, are found liable, jointly and severally, and shall pay to the Claimant the amount of \$2,850.00, plus interest at the legal rate of 12% per annum (from July 16, 1991 to May 19, 1992) in the amount of \$287.66, for a total due to the Claimant of \$3,137.66.
2. Claimant's request for treble damages and punitive damages is denied.
3. 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

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$2,000.00 (2 sessions x \$1,000.00 per session). Claimant is hereby assessed \$1,000.00 for which the NASD shall retain the \$1,000.00 previously deposited in full satisfaction thereof, Respondent, Prudential, is hereby assessed \$1,000.00 payable to the National Association of Securities Dealers, Inc.

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

Concurring Arbitrators' Signatures

/s/
Linda A. Singer Stein, Esq.

Public

/s/
Marina Shank Klein, Esq.

Public

/s/
Penny N. Miller

Industry

Date of Decision: June 1, 1992