

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Gloria L. Peacock
individual & TTEE
Gloria L. Peacock Trust

vs.

NASD #91-02605

Name of Respondents

David Ziegler
Prudential-Bache Securities, Inc.

REPRESENTATION

For Claimant: Christopher J. Rillo, Esq.

For Respondents: William H., Freilich, Esq.

CASE INFORMATION

Statement of Claim filed: August 22, 1991

Claimant's Submission Agreement signed on: July 1, 1991 for Gloria L. Peacock
and September 6, 1991 for Gloria L. Peacock,
Trustee for the Gloria L. Peacock Trust

Joint Statement of Answer filed by Respondents on: October 23, 1991
Respondents' Submission Agreements signed on: None signed but both
respondents submitted to the jurisdiction of the NASD in accordance with
Section 12 of the NASD Code of Arbitration Procedure.

HEARING INFORMATION

Prehearing Conference Date/Sessions: None

Hearing Date/Sessions: March 31, 1992 (2 sessions)
April 7, 1992 (3 sessions)
April 28, 1992 (1 session)

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant alleged unauthorized trading, negligence, misrepresentation, fraud and lack of suitability in the sale of approximately \$230,000, in stock from her portfolio and purchase of Putnam Income Fund.

Respondents denied all substantive allegations of the Statement of Claim and alleged that respondent Ziegler attempted to save claimant sales charges in recommending the Putnam Income Fund, that claimant is better off, on a cash basis, as a result of that purchase and that respondents did not represent themselves as tax experts or encourage claimant to falsify her tax returns.

RELIEF REQUESTED

Claimant requested:

1. a) Compensatory damages of \$57,107.00; and
b) A supplemental amount for the additional taxes on amounts awarded to Claimant; and
2. In the alternative, rescission damages equal to the amount necessary to return claimant's portfolio to the state it was in before respondents' unauthorized trades and unlicensed practice of law; and
3. Interest on the above amounts; and
4. Costs and attorney's fees; and
5. Punitive damages in the amount of three times the Claimant's losses.

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.

The claim for damages was amended at hearing to \$122,000.00.

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 are jointly and severally liable for and shall pay claimants the sum of \$12,500.00;
2. Respondents are jointly and severally liable for and shall pay claimants the sum of \$5,000.00 in attorney's fees in accordance with California Civil Code Section 1717.
3. The claim for punitive damages is dismissed.

OTHER COSTS

Respondents are jointly and severally liable for and shall pay claimants the sum of \$2,500.00 for expert witness fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall retain the \$750.00 hearing session deposit previously deposited by the claimant. Forum Fees assessed against:

Respondents jointly and severally for the amount of \$3,750.00 calculated as follows: Six hearing sessions times \$750.00/hearing session equals \$4,500.00, minus \$750.00 paid by claimants as a hearing deposit.

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

ARBITRATION PANEL

Name

Public/Industry

Mario Henry Barsotti
Ferdinand Schoch
Frank Weaver

Public Arbitrator
Public Arbitrator
Industry Arbitrator

Concurring Arbitrators' Signature

Mario Henry Barsotti

Ferdinand Schoch

Frank Weaver

Served June 9, 1992

Date of Decision: _____