

N.A.S.D. AWARD

Arbitration

[®]
NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
One East Broward Boulevard
Suite 1000
Ft. Lauderdale, Florida 33301
(305) 522-7391

In the Matter of the Arbitration Between)

Name of Claimant(s))

David & Juana Poniewan Gabriel C.)
Poniewan and Roberto Poniewan)

Case No. 91-03105

Name of Respondent(s))

Prudential-Bache Securities Inc.)

REPRESENTATION

For Claimant, David & Juana Poniewan ("Poniewan"): Robert P. Frankel, Esq. of
Lapidus & Frankel, P.A.

For Respondent, Prudential Bache Securities, Inc. ("Prudential"): Delmer C.
Gowing, III, of Honigman Miller Schwartz and Cohn.

CASE INFORMATION

Statement of Claim filed: October 4, 1991. Claimant Submission Agreement
signed by Claimants: March 20, 1991.

Statement of Answer filed by Respondent on: December 11, 1991. Respondent
Submission Agreement signed: December 1991 by Kathy M. Klock, Esq. on
behalf of the firm.

HEARING INFORMATION

Hearing Date/Sessions: 8/11/92-Two (2) Sessions

8/12/92-Two (2) Sessions

8/13/92-Two (2) Sessions

Total number of hearing sessions: Six (6) Sessions.

CASE SUMMARY

Claimants alleged that they are unsophisticated investors who initially
opened their account with Respondent in order to acquire Canadian Treasury
Bills and that their investment objective was that of safety and preservation
of capital. Claimants alleged that they were urged by Respondent to execute
an options agreement in blank which was negligently and recklessly falsified
by Respondent in order to properly qualify them as experienced investors in
the options market. Claimants alleged that Respondent through its account
executive engaged in excessive and non-substantiated trading for the
purchase and sale of "naked calls" in total and reckless disregard for
Claimants' investment objectives and that Respondent's Conduct was in

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violation of Rule 10b-5 of the Securities and exchange Act of 1934, 15 U.S.C. Section 78j(b), 15 U.S.C. Section 780(c)(1-2) and Section 517.301, Florida Statutes. In addition Claimants alleged that Respondent breached its fiduciary duty toward them, that Respondent was fraudulent, and negligent and failed to properly supervise its employees.

Respondent denied all allegations of wrongdoing and maintained that David Ponienman who is intelligent, a successful businessman and a person who is meticulous in his affairs and that Claimants were fully advised of and understood the risks and the extent of the risks associated with each transaction in their accounts. Respondent alleged that Claimant, David Ponienman indicated that he had experience in various strategies in gold and silver commodities, and currencies and had made significant profits in them, that he had experience in stocks and bonds and that he gave instructions for all orders in both accounts. Respondent maintained that Options Agreements were completed for both accounts and that the Options Agreements both reflected speculation as investment objectives. Respondent further maintained that each and every transaction in the accounts was not only approved by David Ponienman but were also discussed in intimate detail with him prior to each transaction. Respondent contended that while Claimants' losses were significant and Respondent regrets that they were incurred, that losses were a known risk of the options transactions Claimants engaged in and fully appreciated. Respondent added that losses are Claimants' responsibility and not the responsibility of Respondent.

RELIEF REQUESTED

Claimants requested an Award for the approximate amount of \$135,000.00 in losses sustained on Claimants' accounts plus a reasonable rate of interest, punitive damages, costs of these proceedings and reasonable attorneys' fees and for such other relief as the Panel deems appropriate.

Respondent requested that Claimants' Claims be dismissed in all respects and that they be awarded attorneys' fees.

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. Respondent, Prudential Bache Securities, Inc., is found not liable and, therefore, all claims against it are hereby dismissed;

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2. The parties shall each bear their own costs including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the Arbitration panel has assessed forum fees in the amount of \$4,500.00 (Six (6) hearing sessions X \$750.00).

Respondent, Prudential Bache Securities, Inc. is hereby assessed, and shall pay forum fees in the amount of \$4,500.00, \$750.00 of which shall be paid directly to Claimants and the remaining balance of \$3,750.00 to be paid to the NASD, Inc.

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

ARBITRATION PANEL

Concurring Arbitrators' Signatures

/s/

Nancy J. Cliff, Esq.
(Public/Chairperson)

/s/

Elizabeth L. Clark
(Public/Panelist)

/s/

Nicholas A. Natale
(Industry/Panelist)

Date of Decision: September 21, 1992