

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Fletcher R. McKinney
Courtney W. McKinney

91-03258

Name of Respondent

Prudential Bache Securities, Inc.

REPRESENTATION

For Claimants: Mitchell Scott Paul, Esq., Minneapolis, Minnesota.

For Respondent: Patricia A. Fitzpatrick, Esq. of Prudential Securities, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed: October 17, 1991.

Claimants's Submission Agreement signed on: October 5, 1991.

Statement of Answer filed by Respondent on: March 31, 1992.

Respondent's Submission Agreement signed on: March 30, 1992.

HEARING INFORMATION

Hearing Date/Sessions: August 26, 1992 for two (2) sessions.

Hearing Location: Minneapolis, Minnesota.

CASE SUMMARY

Claimants Fletcher and Courtney McKinney ("the McKinneys") alleged that Respondent Prudential Bache Securities ("Prudential") made unsuitable investments in the McKinney's account, misrepresented the liquidity of the investment, and acted against the interest of their client, and benefitted from these illegal actions by collecting interest and commissions on these improper trades. The McKinneys further alleged that they had been left with an unsuitable portfolio they cannot liquidate. The McKinneys alleged that among the investments recommended by Prudential was Eagle Insured Limited Partnership, an investment alleged by Claimants to be unsuitable for an unsophisticated investor.

Respondent Prudential denied the allegations set forth in the Statement of Claim. Prudential alleged that the McKinnys were well aware of the nature of the Eagle Insured Limited Partnership before purchasing it. Prudential further alleged that a follow-up copy of the prospectus was mailed to the McKinnys along with their confirmation slip before the settlement date. Prudential alleged that the action is barred pursuant to the Statute of Limitations.

RELIEF REQUESTED

Claimants requested an Award of compensatory damages in an amount over \$50,000.00, an Award of punitive damages in an amount of \$50,000.00, attorney's fees, interest on all damages awarded, costs, disbursements, expenses, and such other relief as the arbitrators deem just and equitable under the facts in the case.

Respondent requested that the claims be dismissed in their entirety and that they be awarded their 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 original(s) remain on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The Claimants's Statement of Claim is denied and dismissed in its entirety;
2. Each of the parties shall bear their own costs and expenses incurred, including attorney's fees, other than those specifically enumerated for herein.

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FORUM FEES

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

2 sessions X \$500 = \$1000 minus hearing session deposit of \$500 = net \$500 due.

Forum fees Assessed Against: Respondent Prudential Bache Securities in the amount of \$500.00

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

By The Arbitration Panel:

Dated:

October 15, 1992

George A. Beck, Esq.
George A. Beck, Esq.
Chairperson
Public Arbitrator

October 14, 1992

Arthur H. Cobb
Arthur H. Cobb
Public Arbitrator

November 1, 1992

Mary E. Powers
Mary E. Powers
Industry Arbitrator

Date Award Served By The NASD: November 13, 1992