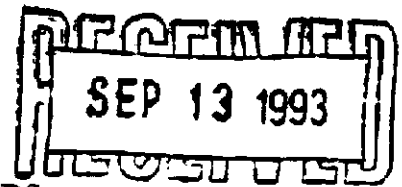


N.A.S.D. AWARD



NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Milton & Elaine Rubin

Case No. 91-03515

Name of Respondent(s)

Prudential-Bache Securities Inc.  
Donald Lockshin

REPRESENTATION

For Claimants, Milton and Elaine Rubin ("the Rubins"): Keith T. Grumer, Esq.  
of Keith Mack Lewis.

For Respondents, Prudential Securities, Inc. ("Prudential") and Donald Lockshin  
("Lockshin"): Marcos D. Jimenez of White and Case.

CASE INFORMATION

Statement of Claim filed: November 7, 1991 and amended on June 7, 1993.

Claimants' Submission Agreement signed: November 30, 1991.

Respondents' Joint Amended Statement of Answer filed: July 2, 1993.

Respondents' Submission Agreements signed: January 21, 1992 by Lockshin, and  
on February 13, 1992 by Edward Samson on behalf of Prudential

HEARING INFORMATION

On May 14, 1993, in Fort Lauderdale, Florida a pre-hearing conference lasting  
1 session was conducted, via telephone conference call, with an arbitrator.

On August 30 and 31, 1993, in Fort Lauderdale, Florida, hearings lasting 4  
sessions were conducted.

### **CASE SUMMARY**

Claimants alleged that their investment objective with Respondents was safety of principal; that when they transferred their account to Prudential, Lockshin initially reduced their margin debt and then increased it almost to its original excessive amount; that Lockshin, on behalf of Respondents, recommended and effected unsuitable purchases of equity securities in violation of Regulation T; that Respondents' actions also violated the NASD Rules of Fair Practice and Section 517.301, Florida Statutes as fraud and deceit.

Respondents denied all allegations of wrongdoing and alleged that Claimants had previous experience with aggressive margin trading; that they executed a margin agreement with Prudential; that because Claimants were unhappy with their Putnam High Income Fund, Respondents recommended replacement with a conservative fund; that Claimants instructed the purchase of additional Kay Jewelers stock against the advice of Lockshin; and, that the claims are frivolous and without merit.

Respondents alleged the affirmative defenses of failure to state a claim; good faith; equal culpability by violation of Regulation X; assumption of risk; ratification and failure to promptly object or disaffirm; waiver and estoppel; failure to exercise due diligence; contributory negligence; failure to mitigate damages; losses not caused by Respondents; losses caused by market conditions; unsuitability claim is barred by economic loss rule; and, receipt of compensation from class action suit.

### **RELIEF REQUESTED**

Claimants requested damages in the amount of from \$89,824.64 to \$97,103.94 inclusive of interest.

Respondents requested dismissal and 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 be entered. In their 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 are found not liable and, therefore, all claims against them are hereby dismissed.

2. Claimants are found liable to the Respondents, jointly and severally, for attorney's fees pursuant to Section 517.211, Florida Statutes, the amount to be determined by a court of competent jurisdiction.

#### OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

#### FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$2,300.00 (1 pre-hearing conference x \$300.00 plus 4 sessions x \$500.00).

2. Claimants are hereby assessed \$2,300.00 for the which the NASD shall retain the \$500.00 previously deposited in partial satisfaction thereof, leaving a balance due of \$1,800.00 payable to the National Association of Securities Dealers, Inc.

3. Claimants shall also pay the postponement fee of \$1,000.00 which was previously assessed by the Panel for the postponement of the hearing scheduled for May 17 and 18, 1993.

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

Concurring Arbitrators' Signature  
Name

151

Public/Chairperson

151

Industry

151

Public

Date of Decision:

9/13/93