

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)
)
 Name of Claimant(s))
)
 Paquita Hersey)
)
 Name of Respondent(s))
)
 Prudential-Bache Securities Inc.)
 Bernice Freeland)
)

Case No. 92-00853

REPRESENTATION

For Claimant, Paquita Hersey ("Hersey"): pro se.

For Respondents, Prudential-Bache Securities, Inc. aka Prudential Securities, Inc. ("PSI") and Bernice Freeland ("Freeland"): Nancy Basri, Esq. of PSI.

CASE INFORMATION

Statement of Claim filed: March 12, 1992. Claimant's Submission Agreement signed: February 3, 1992.

Respondents' Joint Statement of Answer filed: April 27, 1992. Respondents' Submission Agreements signed by Freeland on May 8, 1992, and by Garry Lischin on behalf of PSI on May 11, 1992.

HEARING INFORMATION

On October 30, 1992, in Fort Lauderdale, Florida, a hearing lasting one (1) session was conducted.

CASE SUMMARY

Claimant alleged that she is a 70 year old retired, single woman with investment objectives of conservation of principal and safety; that she relied on and trusted Freeland to properly manage her Quantum account; that Respondents, through Freeland, failed to execute an order to liquidate her investments when the Dow reached the 3,000 point level; that Respondents' actions constituted breach of fiduciary duty, negligence, and negligent supervision by PSI.

Respondents denied all allegations of wrongdoing and alleged that Claimant's Quantum account required that instructions to liquidate the account or terminate the relationship must be in writing; that Claimant did give a written instruction to liquidate if her share value moved to \$60,000.00; that

Claimant never gave a written or verbal instruction to liquidate the account based on the Dow; that Claimant did not suffer any loss related to the account; and, that Claimant's stocks were delivered to her when the account was closed.

RELIEF REQUESTED

Claimant requested damages in the amount of \$4,958.00 plus interest.

Respondents requested dismissal.

OTHER ISSUES CONSIDERED AND DECIDED

None.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Respondents are found not liable and, therefore, all claims against them are hereby dismissed.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of \$100.00 (one session x \$100.00). Claimant is hereby assessed \$100.00 for which the NASD shall retain the \$100.00 previously deposited in full satisfaction thereof.

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

Arbitrator's Signature


Joseph L. Bernstein, Esq.

Public

Date of Decision: November 19, 1992