

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant

B. Lydia Samaniego

NASD Arbitration
No.92-2256

Name of Respondents

Prudential Bache Securities, Inc.
Carl Gottuso

REPRESENTATION

For Claimant: Dan Zaharoni, Esq. - Waier and Urtnowski - Santa Ana, California

For Respondent, Prudential-Bache Securities, Inc.: Janet M. Simmons, Esq. - Keesal, Young & Logan, Long Beach, California

Respondent, Carl Gottuso, appeared In Pro Se.

CASE INFORMATION

Statement of Claim filed: July 8, 1992

Amended Statement of Claim filed: March 1, 1993

Claimant's Submission Agreement signed: February 8, 1992

Statement of Answer filed by Respondent, Prudential Bache Securities, Inc.: September 14, 1992

Amended Statement of Answer filed by Respondent, Prudential Bache Securities, Incl.: March 23, 1993

Statement of Answer filed by Respondent, Carl Gottuso: September 25, 1992

Amended Statement of Answer filed by Respondent, Carl Gottuso: April 5, 1993

9-21-94

HEARING INFORMATION

Hearing Dates / Sessions: June 11, 1994 - One Session (Pre-hearing Conference)
June 22, 1994 - Two Sessions
July 18, 1994 - Two Sessions

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant, B. Lydia Samaniego (Samaniego), alleged that Carl Gottuso, while employed and under the supervision of Prudential Bache Securities, Inc., induced Samaniego into a series of investments that were inconsistent with her stated financial goals. It is also alleged that Samaniego's account was "churned", and that she was induced into making loans to a party who was not controlled by Prudential.

Respondents alleged that Samaniego was advised of the risks of the investment made, including the fact that the value of the investments as well as the income generated could and would vary. Respondents also alleged that the investments were consistent with Claimant's investment objective of increased returns and preservation of capital.

RELIEF REQUESTED

Claimant seeks to recover the difference between the fair value that her account would have had it been properly managed and the fair value it presently has, according to proof, restoration of commissions and interest, punitive damages in an amount of \$500,000.00, costs and attorney's fee.

Respondents seek dismissal of the claim in its entirety plus costs.

On June 11, 1994, a pre-hearing conference was conducted with the parties and the Chairman of the panel. The parties addressed Respondent's Motion to Dismiss claims relating to Claimant's loans to a third party, a Motion to Dismiss Based on Statutes of Limitations and a Motion to Dismiss Claims Regarding Prudential-Bache Energy Income Limited Partnership P-23. The Chair advised the parties that he would recommend dismissal of the claims relating to outside loans and referred the remaining motions to the full panel. Subsequent to the ruling the Motion to Dismiss claims relating to the Energy Income Partnership was withdrawn.

OTHER ISSUES CONSIDERED AND 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 remains on file with the NASD.

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. All claims relating to Respondent Carl Gottuso were dismissed without prejudice due to stay issued by Bankruptcy Court.
2. Respondent, Prudential Bache Securities, Inc., is liable and shall pay to Claimant, B. Lydia Samaniego the sum of Twenty Six Thousand, Five Hundred Dollars and No Cents (\$26,500.00).
3. Claimant's claim for punitive damages is dismissed.
4. The parties shall each bear their respective costs and fee, including attorney's fees.
5. The NASD shall retain all fees and deposits.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

Total Fees:		
Four Hearing Sessions @ \$750 / ea	=	\$3,000.00
One pre-hearing conference @ \$300 / ea	=	\$300.00
Total	=	<u>\$3,300.00</u>
Claimant's one-half share	=	\$1,650.00
Less hearing session deposit, previously paid	=	<u>\$1,050.00</u>
Balance due	=	<u>\$500.00</u>
Respondent's share	=	<u>\$1,650.00</u>

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

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Gerald Koris	Public Chairperson
Sanford Kahn	Public Panelist
Andrew Sorensen	Industry Panelist

Concurring Arbitrators' Signatures

Andrew Sorensen