

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Gregg Miller

vs.

NASD #93-237

Name of Respondents

Prudential Securities Inc. and
Cliff Davis

REPRESENTATION

For Claimant: Nancy G. Karlin, Esq., Schulman & Miller, Beverly Hills, CA

For Respondents: Patricia Fitzpatrick, Esq., Prudential-Bache Securities, Inc., New York, NY

CASE INFORMATION

Statement of Claim filed: January 22, 1993

Claimant's Submission Agreement signed: January 5, 1993

Statement of Answer filed by Respondents on: March 4, 1993

Respondents' Submission Agreements signed on: Clifford L. Davis on March 3, 1993 and
Prudential-Bache Securities Inc. on March 5, 1993.

HEARING INFORMATION

Prehearing Conference(s) Date(s)/(Sessions): None

Hearing Date/(Sessions): September 29, 1993 (two sessions)

Hearing Location: Los Angeles, CA

CASE SUMMARY

Claimant alleged: Unsuitability and misrepresentation in the purchase of International Murex Technologies Corporation (Murex) during the period of February and September of 1992. Toward the end of that period the stock dropped significantly in value, requiring that the shares, held on margin, be sold. Claimant was an unsophisticated investor and was told he would *make* a sizeable profit within two months of the purchase. Respondent Davis told Claimant he knew executive level personnel at Murex and that the stock would generate a quick profit. Davis also told Claimant it was not possible to place a stop sale order.

Respondents denied each and every allegation of the Statement of Claim and alleged: Claimant indicated he earned \$40,000 annually and had a net worth exclusive of residence of \$50,000, with years of experience trading stocks and options. His investment objective was speculation on his option agreement.

Claimant began making unsolicited purchases of Murex in March of 1992 and continued to do so while the price dropped. He sold a small number of shares when the price went up in June of 1992 on Davis' recommendation. Claimant was sent press releases and reports on Murex and was aware of the reasons for the declining price.

RELIEF REQUESTED

Claimant requested:

1. Compensatory damages and interest of \$25,281.84;
2. Lost opportunity costs;
3. Costs of arbitration;
4. Attorneys' fees;
5. Punitive damages.

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 undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. All claims are dismissed;
2. The claim for punitive damages is dismissed;
3. The parties shall each bear their respective attorney's fees;
4. The parties shall each bear their respective costs.

OTHER COSTS

None

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc. shall retain the \$400 hearing session deposit previously deposited by the claimant as his portion of forum fees assessed. Forum fees are further assessed against:

Respondents Prudential and Davis, jointly and severally, for \$400 calculated as follows: Two hearing sessions at \$ 400 /hearing session, equals \$ 800, assessed evenly between Claimant and Respondents (\$400 each, and Claimant has already paid his portion as a hearing deposit).

Fees are payable to the National Association of Securities Dealers.

ARBITRATION PANEL

Name

Public/Industry

Concurring Arbitrators' Signature

Milton C. Bennett

Don Sweeney
Don Sweeney, Esq.

Robert W. Vernon

Date Served: 10/22/93

Date of Decision: *October 5, 1993*