

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Mary Garrett

93-00408

Name of Respondent

Prudential Securities Incorporated, f/k/a
Prudential-Bache Securities, Inc.

REPRESENTATION

For Claimant: Mary Garrett ("Garrett") was represented by Reid McInvale, Esq. of McInvale & McInvale, Houston, Texas.

For Respondent: Prudential Securities Incorporated, f/k/a Prudential-Bache Securities, Inc. ("Prudential"), was represented by Donald Littlefield, Esq. of Prudential Securities Incorporated, Dallas, Texas.

CASE INFORMATION

Statement of Claim filed: February 3, 1993.

Claimant's Submission Agreement signed on: January 25, 1993.

Motion to Dismiss filed by Respondent Prudential on: March 30, 1993.
Respondent Prudential did not file an executed Submission Agreement.

Supplemental Motion to Dismiss filed by Respondent Prudential on: June 10, 1993.

Claimant's Motion to Preclude Answer filed: March 24, 1993.

Claimant's Response to Respondent's Motion to Dismiss filed: April 3, 1993.

Response to Motion to Preclude Answer filed by Respondent Prudential on: March 30, 1993.

Supplemental Response to Motion to Preclude Answer filed by Respondent Prudential on: June 9, 1993.

HEARING INFORMATION

Pre-Hearing Conference: September 28, 1993 for One (1) session before a majority of the panel.

Hearing Dates/Sessions: None

Hearing Location: Houston, Texas.

CASE SUMMARY

Claimant Garrett alleged that Respondent Prudential misrepresented and induced her to purchase an unsuitable investment in the Prudential Bache Energy Income Series I P1 limited Partnership in 1983. Garrett further alleged that the fraud continued because of the monthly statements sent to her misrepresented the value of the limited partnership interest. Based upon these allegations, Garrett asserted claims for violation of the Federal and state securities statutes; violation of the Texas Deceptive Trade Practices-Consumer Protection Act ("DTPA"); breach of fiduciary duty; common law fraud; negligence; and breach of duty of good faith and fair dealing.

Respondent Prudential did not answer the claims asserted, but filed a Motion to Dismiss pursuant to Section 15 of the NASD Code of Arbitration Procedure, alleging that the claims asserted arose more than six (6) years prior to the filing of the Statement of Claim.

RELIEF REQUESTED

Claimant Garrett requested entry of an award against Prudential for compensatory damages not to exceed \$500,000.00 for the capital loss, commissions paid, service fees paid, lost investment opportunities and other sums lost; punitive damages as determined by the Panel, or alternatively, treble damages pursuant to the DTPA; pre- and post judgment interest; and reasonable attorneys' fees and costs.

Respondent requested that the Statement of Claim be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Prudential did not file an executed submission agreement, but is required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure.

On September 28, 1993, a pre-hearing conference was held before two members of the arbitration panel to hear arguments on Respondent Prudential's Motion to Dismiss based upon Section 15 of the NASD Code of Arbitration Procedure, and Claimant Garrett's Motion to Preclude Answer pursuant to Section 25 of the NASD Code of Arbitration Procedure. After review of the documents filed and the arguments presented in the matter, and consulting with the Arbitrator who was unable to attend the pre-hearing conference, the Arbitrators determined that:

1. Claimant's Motion to Preclude Answer is hereby denied;
2. Respondent's Motion to Dismiss is hereby granted.

In regard to the Motion to Dismiss, the Arbitrators specifically found that it was undisputed that Claimant Mary Garrett purchased the interests about which she complained in 1983. Additional information was provided that Garrett wrote two demand letters complaining of misrepresentation and suitability of the investment on August 14 and September 14, 1986. However, the claim was not filed until February 3, 1993 and the submission agreement was not signed by Garrett until January 25, 1993. Therefore, the claims asserted by the Claimant are beyond the six-year period provided in Section 15 of the NASD Code of Arbitration Procedure and it is hereby ordered that the Statement of Claim filed by Mary Garrett is dismissed.

AWARD

After considering the pleadings and the arguments presented at the pre-hearing conference, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The Motion to Dismiss based upon Section 15 of the NASD Code of Arbitration Procedure filed by Respondent Prudential Securities Incorporated, f/k/a Prudential-Bache Securities, Inc. is granted and the claim filed by Claimant Mary Garrett is hereby dismissed;
2. The parties shall bear their own costs of arbitration, including attorneys' fees, except for those specifically enumerated herein.

FORUM FEES

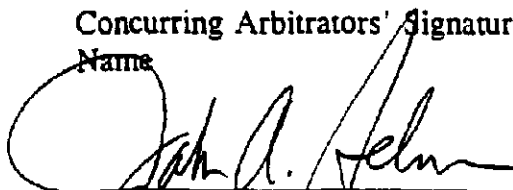
Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed: One (1) pre-hearing session before a majority of the panel x \$750.00 per session = \$750.00.

The National Association of Securities Dealers, Inc. shall retain the \$200.00 non-refundable claim filing fee and refund \$675.00 of the \$1050.00 hearing session deposit previously filed by the Claimant, Mary Garrett. The NASD shall retain \$375.00 of Claimant Mary Garrett's hearing session deposit. Respondent Prudential Securities, Incorporated, f/k/a Prudential-Bache Securities, Inc. is liable for and shall pay to the NASD forum fees in the sum of \$375.00.


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

Concurring Arbitrators' Signatures
Name

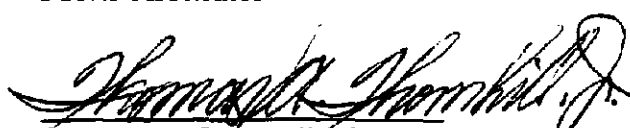
Date


John A. Selman, Esq.
Public Arbitrator
Chairperson

1/4/94


Irving Pozmantier
Public Arbitrator

1/13/94


Thomas A. Thornhill, Jr.
Industry Arbitrator

1-7-94

For NASD Use Only

Date of Service of Award: 1-24-94