

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Susan Moss

93-01973

Name of Respondents

Prudential-Bache Securities Inc.
Roy H. Savarick

REPRESENTATION

Claimant, Susan Moss, ("Moss"), was represented by Robert Wayne Pearce, Esq. of Lerner & Pearce, P.A., Ft. Lauderdale, FL.

Respondents, Prudential-Bache Securities Inc., ("Prudential"), and Roy H. Savarick, ("Savarick"), were represented by Michael Arias, Esq., of Prudential Securities Inc., Boca Raton, FL.

CASE INFORMATION

Statement of Claim filed: May, 18, 1993.

Claimant's Submission Agreement signed on: April 28, 1993.

A joint Statement of Answer filed by Respondents, Prudential and Savarick, on: June 8, 1993.

Respondent, Prudential's, Submission Agreement signed on: August 26, 1993.

Respondent, Savarick's, Submission Agreement signed on: June 28, 1994.

HEARING INFORMATION

The hearing was held on June 28, 1994, in Ft. Lauderdale, FL. The hearing lasted 3 sessions.

CASE SUMMARY

Claimant, Moss, brought this claim, individually and as Custodian for Lauren Moss, against Respondents in connection with an investment made in the custodial account at the brokerage firm. Claimants alleged that: the investment objectives of Mrs. Moss were the safety of principle and long term growth for the purpose of accumulating funds for her daughter's education; Savarick recommended the purchase of a R.H. Macy & Co., Inc. debenture for the account; unknown to Claimant, the debenture was speculative in nature; it was a junk bond; the investment substantially declined in value; Moss claimed against Respondents for continuing violations of Chapter 517.301, Common Law Fraud, Breach of Fiduciary Duty, Negligence, and Breach of Contract based on various misrepresentations, omissions, promises, guarantees, and unsuitability.

Respondents alleged that Claimant was aware of and authorized all transactions in the account; Savarick discussed with Moss, in detail, the risks associated with the Macy Bonds; Moss consulted with her husband, who is familiar with high yielding bonds, on several occasions about the investment. Furthermore, Moss received account statements which clearly reflected the volatility of the Macy Bonds, thereby placing her on notice of the speculative nature of the bonds. Moreover, Claimant had the financial ability to absorb the losses and were seeking higher returns. Therefore, Respondents deny all the claims against them, including Fraud and Negligence.

RELIEF REQUESTED

Claimant requested an award against Respondents, jointly and severally, for compensatory damages in excess of \$25,000.00; attorneys' fees pursuant to Section 57.105 Fla. Stat; costs of this proceeding and such other relief as the Panel deems just and proper.

Respondents requested that the Panel dismiss Claimant's claims in all respects.

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. Respondents, Prudential and Savarick, are found liable, jointly and severally, and shall pay to Claimant the amount of \$13,500.00.
2. Claimants' requests for attorneys' fees and costs are denied.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding (including attorneys' fees).

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitration Panel has assessed Forum Fees in the amount of \$1,200.00 (3 hearing sessions X \$400.00).

1. Claimant is hereby assessed Forum Fees in the amount of \$600.00, for which the NASD shall retain the \$400.00 previously deposited in partial satisfaction thereof, leaving a balance due to the NASD of \$200.00.
2. Respondents are hereby assessed Forum Fees in the amount of \$600.00, payable to the N.A.S.D. Inc.

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

Concurring Arbitrators' Signatures
Name

Public/Industry

_____/s/
Jimmie R. Gregory, Esq.

_____/s/
Lionel P. Greenbaum

_____/s/
Frank G. Brennan

Date of Decision: August 3, 1994