

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant

Patricia K. Wherley

NASD Arbitration
No. 93-02472

v.

Name of Respondent

Prudential Bache Securities, Inc.

REPRESENTATION

For Claimant: Steven M Green, Esq. - San Diego, California

For Respondent: Richard W. Smirl, Esq. - Keesal Young & Logan - Long Beach, California

CASE INFORMATION

Statement of Claim filed: June 24, 1993

Amended Statement of Claim filed: March 21, 1994

Claimant's Submission Agreement signed: June 21, 1993

Statement of Answer filed by Respondent: September 30, 1993

Statement of Answer to Amended Statement of Claim filed: May 6, 1994

HEARING INFORMATION

Hearing Dates / Sessions: July 13, 1994 - Two Sessions
July 14, 1994 - Two Sessions
August 5, 1994 - Two Sessions
August 6, 1994 - Two Sessions
August 7, 1994 - Two Sessions

Hearing Location: San Diego, California

CASE SUMMARY

Claimant, Patricia K. Wherley, claims against Respondent, Prudential Bache Securities, Inc., for:

1. Breach of fiduciary duty;

2. Intentional misrepresentation, fraud and deceit;
3. Breach of contract and the covenant of good faith and fair dealing;
4. Violation of Securities Act of 1933, 15 U.S.C. Sections 771(1), 771(2), 77g(a) (1), 77g(a)(2), and 77g(a) (3);
5. Violation of Sections 25400, 25401, 25500 and 25001 of the California Corporate Securities Act of 1968;
6. Violation of Sections 25110, 25130 and 25503 of the California Corporate Securities Act of 1968;
7. Negligence, Negligent Misrepresentation and Negligent Management;
8. Conversion;
9. Violation of the Elderly Abuse Act, W & I Code Section 15600 (f), et seq.

Claimant claims for losses in investments in energy and real estate limited partnerships and losses incurred from the sale and purchase of common stocks.

Respondent denies each and every allegation of wrongdoing and liability set forth and/or implied in Claimant's claim. Respondent denies that claimant has been injured in the amount claimed, or in any amount, by virtue of any conduct of Respondent.

RELIEF REQUESTED

Claimant seeks to recover an amount in excess of \$206,006.30, interest, punitive and exemplary damages, costs, attorney's fees and rescission.

Respondent seeks dismissal of the claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The panel reviewed submissions and heard oral arguments by the parties relating to a Motion to Dismiss under Section 15 of the NASD Code of Arbitration Procedure and State and Federal Statutes of Limitations. Said Motion was denied. The panel exercised its jurisdiction over the parties and heard the Claim in chief.

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. Respondent, Prudential Bache Securities, Inc., is liable and shall pay to Claimant, Patricia Wherley, the sum of Sixty Two Thousand, Seven Hundred Dollars and No Cents (\$62,700.00).
2. Claimant's claim for damages under the Elderly Abuse Act is denied.
3. Claimant's claim for punitive damages is denied.
4. Claimant's claim for interest is denied.
5. Rescission is granted with respect to 2250 units of Eagle Insured LP1, date of settlement June 27, 1988, and 100 units of PB Spanos Realty 1, settlement date June 27, 1988. Therefore, Claimant is to transfer ownership of the said investments to Respondent free of all encumbrances.
6. The parties shall each bear their respective costs and fees including attorneys' fees.
7. The NASD shall retain all fees and deposits.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure,

Respondent, Prudential Bache Securities, Inc., is assessed the sum \$7,500.00 representing assessments for 10 hearing sessions at \$750.00 each.

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

ARBITRATORS


Name

William R. Newsome, Esq.
Gerald J. Lonergan
Richard G. Brand

Public / Industry

Public Arbitrator
Public Arbitrator
Industry Arbitrator

Concurring Arbitrators' Signatures



William R. Newsome, Esq.

Gerald J. Lonergan

Richard G. Brand

Date of Decision: Aug 8, 1994

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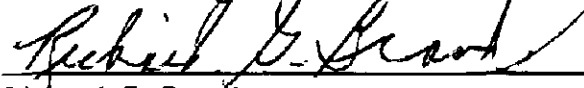
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