

## **AWARD**

NASD Regulation, Inc. Office of Dispute Resolution

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In the Matter of the Arbitration Between

Hilda C. Jeansonne

Claimant,

v.

No. 95-04994

Prudential-Bache Securities, Inc., and  
David P. Grigsby,

Respondents.

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### **REPRESENTATION OF PARTIES**

Claimant Hilda C. Jeansonne ("Claimant") was represented by Allan R. Chason, Esq. of Chason & Chason, P.C. located in Bay Minette, Alabama.

Respondent Prudential-Bache Securities, Inc. ("PSI") was represented by John C. Anjier, Esq. of Liskow & Lewis located in New Orleans, Louisiana.

Respondent David P. Grigsby ("Grigsby") did not appear, and was unrepresented.

### **CASE INFORMATION**

The Statement of Claim was filed on or about October 23, 1995. Claimant's Submission Agreement was signed on October 16, 1995.

Respondent PSI's Statement of Answer and Motion to Dismiss was filed on or about May 2, 1996. NASD Regulation, Inc. Office of Dispute Resolution has no record that Respondent PSI filed a properly executed Submission Agreement.

NASD Regulation, Inc. Office of Dispute Resolution has no record that Respondent Grigsby filed a Statement of Answer. NASD Regulation, Inc. Office of Dispute Resolution has no record that Respondent Grigsby filed a properly executed Submission Agreement.

### **HEARING INFORMATION**

A pre-hearing conference was held on October 21, 1996 for one (1) session.

The Hearing was held on October 24, 1996 for two (2) sessions and October 25, 1996 for one (1) session in New Orleans, Louisiana.

### **CASE SUMMARY**

Claimant alleged that she opened an account with Respondent Grigsby, a broker with Respondent PSI. Claimant alleged that, on the date the account was opened, Claimant was 80 years of age, was retired, was widowed, and living on an annual income of less than \$15,000. Claimant contended that her investment objective was to obtain income without risk of loss of principal, and that she was an unsophisticated investor and dependent on Respondent Grigsby for advice. Claimant asserted that Respondents executed unnecessary and excessive trades in Claimant's account, resulting in trading activity which was effectively unauthorized, and that unsuitable investments were purchased at the insistence of Respondent Grigsby.

Respondent PSI denied all liability to Claimant in its Statement of Answer. Respondent PSI alleged that Claimant's account realized a profit of just over \$18,000 while the account was held at PSI. Respondent PSI contended that the difference between the opening balance and the balance upon transferring out was not due to commissions or margin balance. Respondent PSI asserted that it was caused by the Claimant withdrawing \$49,000 on her initial \$125,000 investment. Respondent PSI maintained that it could not be held liable to a customer who in fact made a profit while her account was at PSI. Respondent PSI asserted the following defenses, including: that the Statement of Claim was legally deficient; that no liability for PSI could be shown; that claims for violations of SRO rules fail to state a private cause of action; that other claims are time-barred; and that no fiduciary duty existed.

### **RELIEF REQUESTED**

Claimant requested an award of damages in the amount of \$100,000.

Respondent PSI requested that the Statement of Claim be dismissed in its entirety and that the Panel declare that Respondent PSI is not liable to the Claimant in any respect, in law or equity, upon the evidence presented.

### **OTHER ISSUES CONSIDERED & DECIDED**

Claimant moved to have the full panel consider whether or not the panel would view a videotape of the Claimant made prior to her death. The Panel granted the Motion, and viewed the videotape.

Upon review of the file, the undersigned arbitrators have determined that Respondent Grigsby has not been properly served with the Statement of Claim pursuant to §10302 and §10314 of the NASD Code of Arbitration Procedure (the "Code") and that arbitration of the matter with respect to Grigsby would not proceed pursuant to §10318 of the Code.

Respondent Prudential Securities, Inc. did not file with NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to §10301 of the Code and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

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(s) remain on file with NASD Regulation, Inc. Office of Dispute Resolution.

### **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) That the Statement of Claim is dismissed in its entirety with prejudice; and
- (2) That other than forum fees, which are addressed below, all other claims and requests for relief not specifically awarded here are, and each of them, hereby dismissed with prejudice.

### **FORUM FEES**

Forum fees are calculated at the rate of \$500 per hearing session and \$300 for each pre-hearing conference, if any. There was one (1) pre-hearing session x \$300 = \$300, and there were three (3) hearing sessions x \$500 = \$1,500 in forum fees. Total forum fees are \$300 + \$1,500 = \$1,800. Pursuant to §10332(b) of the Code, a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$150 and shall retain as forum fees the hearing session deposit in the amount of \$500 previously deposited with NASD Regulation, Inc. Office of Dispute Resolution by Claimant Hilda C. Jeansonne.

Pursuant to §10332(c) of the Code, Claimant Hilda C. Jeansonne is liable for, and shall pay forum fees in the amount of \$400. Pursuant to §10332(c) of the Code, Respondent Prudential Securities, Inc. is liable for, and shall pay forum fees in the amount of \$900.

Pursuant to §10333 of the Code, Respondent Prudential Securities, Inc. is also liable for, and shall pay the member surcharge fee in the amount of \$350.

**Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.**

Concurring Arbitrators' Signatures

\s\ David G. Beerbower, Esq.  
David G. Beerbower, Esq.  
Chairperson  
Public Arbitrator

November 22, 1996  
Dated:

\s\ S. David Holladay, Esq.  
S. David Holladay, Esq.  
Panelist  
Public Arbitrator

November 12, 1996  
Dated:

\s\ Lee F. Murphy, Esq.  
Lee F. Murphy, Esq.  
Panelist  
Industry Arbitrator

November 13, 1996  
Dated:

For NASD use only:

Date award served on the parties: November 25, 1996