

Frota vs. Prudential-Bache Securities, Inc., Ahmed Hussein and John Rasweiller

Ahmed Hussein was employed as a commissioned account representative by Prudential-Bache Securities, Inc. from May 1, 1981 to May 1, 1986 when, according to his CRD report filed at the Financial Industry Regulatory Authority, Inc. ("FINRA"), he resigned voluntarily.

On December 12, 1988, Mr. and Mrs. Frota an elderly couple from Brazil, brought a legal action based against Ahmed Hussein, who was their commissioned account representative, Prudential-Bache Securities and Mr. Hussein's supervisor, John Rasweiller, seeking, among other remedies, compensatory damages of \$2,355,635.

The following are excerpts from the plaintiffs' allegations contained in the Court's decision, *Fernando S. G. Frota and Maria Carmen Frota, Plaintiffs, v. Prudential-Bache Securities, Inc., Ahmed Hussein & John Rasweiller Defendants, No. 85 Civ.9698, United States District Court for the Southern District of New York* decided May 14, 1987 and filed May 15, 1987:

In November 1981, the Frotas opened a so-called "discretionary account" at Prudential-Bache, over which Hussein, their broker, exercised complete control. Between November 1981 and January 1982, the Frotas transferred a portfolio valued at \$2,771,635 from the Chase Manhattan Bank in Switzerland to the Prudential-Bache account. They withdrew \$347,000 for their own use; the remaining \$2,424,635 [**3] was managed and invested solely by Hussein.

Between November 1981 and June 1985, a period of approximately 920 trading days, Hussein made 1,224 purchases and sales of securities for the Frotas' account. Hussein generated \$1,900,000 in commissions and more than \$2,000,000 in margin charges. When the account was finally liquidated in June 1985, only \$69,000 remained. Of the 1,224 transactions for the Frotas' account, 200 were purchases and sales of the same security in a single day; 700 were purchases and sales of the same security within a 30-day period; 165 were purchases and sales of securities for which Prudential-Bache was the sole market-maker.

Hussein also purchased, for the Frota's account, \$ 7,204,506 worth of Certificates of Accrued Treasury Securities ("CATS bonds"), a type of treasury [*4] bond issued by the U.S. government which has all of its interest coupons previously removed by the original purchaser. Although there is a secondary market for the bonds, appreciation depends upon downward fluctuations in interest rates. Hussein purchased the bonds by margining the Frotas' account." (Emphasis added.)

On May 14, 1987 Prudential-Bache Securities, Inc.'s, request for summary judgment was denied by the Court. On June 1, 1987, Prudential-Bache Securities, Inc. settled with Mr. and Mrs. Frota for \$2,500,000. The legal cost of the litigation and the settlement was funded solely by Prudential-Bache Securities.

Three years later the American Stock Exchange brought regulatory actions against Mr. Ahmed Hussein in the same matter.

American Stock Exchange Regulatory Action against Ahmed Hussein

The American Stock Exchange in a *Statement of Charges* dated April 16, 1990 brought a regulatory action against Ahmed Hussein related to the customer complaint and litigation filed by Fernando and Maria Frota.

The American Stock Exchanges *STATEMENT OF CHARGES 90-D-10* dated April 16, 1990 against Ahmed Hussein lists the following factors among others (bold emphasis added):

- 2.7 Frota also advised Hussein that he was unable to monitor activities in his account because he did not understand the monthly statements. **Hussein told Frota the statements were decipherable only to industry professionals, and that he should not try to comprehend them.**
- 2.8 Between November 1981 and June 1985, purchases in the Frota account totaled over \$72,000,000 on an average monthly equity of approximately \$2,600,000; margin charges totaled over \$2,100,000. The account suffered a net loss of nearly \$1 million during the above period.
- 3.0 During all relevant periods, **no margin agreement was signed** by the Frotas.
- 3.1 During the account's history, the **turnover ratio was 27**, annualized to 7.2. **A return of 93.47% of the net investment value of the account was needed to pay for the commissions generated.** A total of **24.79% of the investment value of the account was needed to pay annual commissions which totaled approximately \$2.8 million over the life of the account.**
- 3.2 In approximately **920 trading days from 1981 to 1985, Hussein effected 1,224 trades in the Frota account, including purchases and sales. Of these trades, about 200 were simultaneous purchases and sales of the same securities within the same day; nearly 700 were purchases and sales of the same securities within a 30 day period.**
- 4.1 Over the life of the account, **Hussein purchased approximately \$7 million in Certificates of Accrued Treasury Securities ("CATS") for the Frota account, generating as much as \$850,000 in commissions.** These bonds paid no interest and, if held until maturity in the years 2007, 2011 and 2014, the Frotas would be well over 100 years old.

- 4.5 **By letter dated October 13, 1983 Frota requested that the account be transferred from Prudential-Bache to Chase Manhattan Bank because of the costs associated with trading in the account. Hussein informed Frota on this date for the first time that his account was margined for approximately \$5 million and could not be transferred.** Prior to this time, Hussein told Frota that his account was doing well and that he had nothing to worry about. In **October 1984 and April 1985, Frota again wrote to Hussein in an attempt to transfer his account. The account was transferred in the summer of 1985 to Shearson Lehman Hutton.**

The American Stock Exchange states in its *Stipulation of Fact and Consent to Penalty*, dated March 7, 1991, which was agreed to by Ahmed Hussein without admitting or denying the allegations (emphasis added):

- 5.0 Hussein violated Exchange Rules 924(c) and 422 by abusing his discretionary authority in the Customer A [Frota] account in that he effected excessive transactions...
- 5.1 Hussein engaged in conduct inconsistent with just and equitable principal of trade in violation of Exchange Rule 345 by misrepresenting the situation of the account to Customer A and failing to follow specific customer instructions to close the account...
- 5.2 Hussein violated Article V, Section 4(i) made applicable to employees of member organizations by Exchange Rule. 345(a)(1), in that he willfully engaged in a course of fraudulent conduct in violation of Section 10(b) of the Securities Exchange Act of 1934, and Rule 10(b)-5 thereunder by:
 - (a) excessively trading and churning the Customer A account, while vested with discretionary authority for the purpose of generating commission income...
 - (b) misrepresenting the status of the account to Customer A... and
 - (c) providing Customer A with materially false and misleading information about the status of his account..."

The American Stock Exchange imposed the following penalties against Ahmed Hussein:

- Censure
- A fine of \$25,000
- Three months suspension from servicing any new discretionary accounts