

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

IN THE MATTER OF THE ARBITRATION BETWEEN :  
:  
Carol Pally :  
:  
Claimant : Case #89-00674  
:  
AWARD  
:  
vs. :  
:  
:  
:  
Prudential-Bache Securities, Inc. and :  
Irving Smiley :  
:  
Respondents :

### CASE SUMMARY

Claimant Carol Pally alleged that Respondents Prudential-Bache Securities, Inc. ("Pru-Bache") and Irving Smiley ("Smiley") breached their fiduciary and contractual obligations owed to the Claimant by executing transactions in her personal account without her authorization. Specifically, the Claimant alleged that, without her authorization, Respondent Smiley removed money from the Claimant's account and gave it to her husband, and borrowed on margin against Claimant's account. Claimant also alleged that Respondent Pru-Bache failed to properly supervise Respondent Smiley.

Respondent Pru-Bache and Smiley contended that no transaction or withdrawal was ever made in Claimant's account without her specific authorization and instruction. Respondents also contended that all check withdrawals were made payable only to the Claimant and were sent to her at her home address.

RELIEF REQUESTED

Claimant Carol Pally requested actual damages of \$100,000.00, plus interest, costs and attorney's fees. Respondents Pru-Bache and Smiley requested dismissal of the claim in its entirety, plus costs and legal fees.

### AWARD

On May 3, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Carol Pally on February 23, 1989, by Respondent Prudential-Bache Securities, Inc. on May 17, 1989 and by Respondent Irving Smiley on May 3, 1990. The hearing was conducted at the offices of the National Association of Securities Dealers, Inc. in New York City, NY and consisted of two (2) hearing sessions. The arbitration

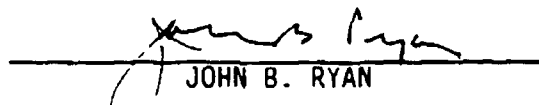
panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. All claims against Respondent Prudential-Bache Securities, Inc. be and hereby are dismissed in their entirety.
2. All claims against Respondent Irving Smiley be and hereby are dismissed in their entirety.
3. The parties shall each bear their respective costs including attorney's fees.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$750.00 filing fee previously deposited by the Claimant and Respondent Prudential-Bache Securities, Inc. be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of SEVEN HUNDRED FIFTY DOLLARS AND NO CENTS (\$750.00), as costs of the two hearing sessions conducted in this matter. Also, Respondent Prudential-Bache Securities, Inc. be and hereby is liable and shall pay to the Claimant the sum of SEVEN HUNDRED FIFTY DOLLARS AND NO CENTS (\$750.00) to offset the filing fee paid by the Claimant to the NASD, Inc.

CONCURRING ARBITRATORS

  
RUTHANN G. NIOSI

  
ROBERT MILANA

  
JOHN B. RYAN

DATED: August 13th, 1990