

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

John C. Smolen and  
Mary K. Smolen, JTWROS

89-01792

Name of Respondent(s)

Prudential-Bache Securities Inc.  
Donald Federman

CASE SUMMARY

Claimants alleged that Respondents traded securities in the Claimants' account without authorization and placed the Claimants in speculative positions rather than the conservative, long-term growth positions that Claimants believed were part of their investment objectives. Respondents maintained that the Claimants represented that they had previous investment experience and instructed Respondents that they anticipated speculative trading in options. Respondents further asserted that Claimants received confirmation of all trades, and all losses were the result of market conditions in October of 1987.

RELIEF REQUESTED

Claimants requested damages in the amount of \$60,000. Respondents requested that the Statement of Claim be dismissed.

AWARD

On May 31, 1990 in Buffalo, New York in two hearing sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimants John C. and Mary K. Smolen on June 1, 1989, by Respondent Prudential Bache Securities, Inc. on August 15, 1989 and by Respondent Donald Federman on September 6, 1989.

The initial claim was filed on June 21, 1989. 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. Respondents Prudential Bache Securities, Inc. and Donald Federman are jointly and severally liable and shall pay to the Claimants the sum of Sixteen Thousand Five Hundred Dollars and No Cents (\$16,500.00) plus legal interest from May 31, 1990 through the date of payment of this award.

2. The parties shall each bear their respective costs including attorneys fees.

3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the \$500.00 filing fee previously deposited by the Claimants, and Respondents are hereby assessed jointly and severally \$1,000.00 in forum fees made payable to the National Association of Securities Dealers, Inc. as costs of the two hearing sessions conducted in this matter.

CONCURRING ARBITRATORS

/s/ \_\_\_\_\_  
Robert Gleichenhaus

/s/ \_\_\_\_\_  
James Parker

/s/ \_\_\_\_\_  
Charles Border

Dated: August 23, 1990