

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Danny M. and Betty L. Arnold

MODIFIED AWARD

92-02635

Name of Respondents

Prudential Securities Inc  
James Keenan

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 7, 1992, Claimants Danny M. and Betty L. Arnold, through their counsel, Robert M. Roth of RM Roth & Associates, Agoura Hills, CA, alleged that Respondents Prudential Securities, Inc. and James Keenan recommended unsuitable investments, including Metric Partners Growth Suite Investors GT Global Growth Fund and Balmac stock. The Claimants further alleged that the Respondents intentionally misrepresented these investments in order to generate commissions for themselves. The Claimants contended that the Respondents breached their fiduciary duty to them, and that they should be compensated for losses incurred due to the Respondents' wrongdoing.

Respondents Prudential Securities, Inc. and James Keenan, through their in-house counsel, V. Michael Arias, Esq., maintained that all recommendations regarding these investments were suitable and in accordance with the Claimants' investment objectives. The Respondents also maintained that they have fulfilled their duties and obligations and should not be held liable for the Claimants' losses.

RELIEF REQUESTED

Claimants Danny M. and Betty L. Arnold requested \$6,706.00 in actual damages, plus costs, interest and attorney's fees.

Respondents Prudential Securities, Inc. and James Keenan requested that the claims of the Claimants be dismissed.

### **AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Howard E. Kurzweil, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on July 21, 1992 but not by the Respondents as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.


And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Prudential Securities, Inc. and James Keenan are jointly and severally liable and shall pay \$4,200.00 in actual damages to Claimants Danny M. and Betty L. Arnold, plus simple interest at the legal statutory rate for the state of Florida from April 10, 1989 to the date of payment of the award.
2. Respondent Prudential Securities, Inc. and James Keenan are jointly and severally liable and shall pay \$500.00 to the Claimants Danny M. and Betty L. Arnold, representing attorney's fees, pursuant to Florida Statute, Chapter 517.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc. Respondent Prudential Securities, Inc. and James Keenan are jointly and severally liable and shall pay \$150.00 to the Claimants as reimbursement of the filing fee.

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**AFFIRMATION**

I, **HOWARD E. KURZWEIL, ESQ.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
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Signature of Arbitrator

DATE OF DECISION: April 29, 1993