

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)

PUBLIC

Helen Finnell

92-02671

Name of Respondent(s)

Prudential Securities Inc  
Warren Thompson

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**REPRESENTATION**

For Claimant Helen Finnell: J. Patrick Sullivan, Esq., sole practitioner,  
Lexington, Kentucky.

For Respondents Prudential Securities, Inc. and Warren Thompson: William  
Allen, Esq. of Gess Mattingly & Atchison, Lexington, Kentucky.

**CASE INFORMATION**

Statement of Claim filed: August 10, 1992.

Claimant's Submission Agreement signed on: August 5, 1992.

Joint Statement of Answer filed by Respondents Prudential Securities, Inc. and  
Warren Thompson on: October 8, 1992.

Respondent Prudential Securities, Inc.'s Submission Agreement signed on:  
October 5, 1992.

Respondent Warren Thompson's Submission Agreement signed on: October 5,  
1992.

### HEARING INFORMATION

Hearing Dates/Sessions:      April 21, 1993 (pre-hearing conference)  
   August 25, 1993 (pre-hearing conference)  
   May 25, 1993 / Two Sessions  
   May 26, 1993 / Two Sessions  
   July 19, 1993 / Two Sessions  
   Sept. 8, 1993 / Two Sessions

Hearing Location: Holiday Inn, in Louisville, Kentucky.

### CASE SUMMARY

Claimant alleged her husband was fatally injured and as a result of his untimely death, Claimant received insurance proceeds of \$400,000.00 and a postal pension of \$275.00 per month. Claimant further alleged that Respondent Warren Thompson, account executive with Respondent Prudential Securities, Inc. was recommended to her, whereby, he was apprised of Claimant's financial situation and her desire for liquid, safe, stable, income producing equipments, and was told Claimant was operated on for a brain tumor. Claimant contended that Respondent Thompson was aware she would rely upon his judgement in making investment decisions since Claimant knew nothing about those matters, whereby, he represented to Claimant that he was knowledgeable in investments and would exercise care in fulfilling Claimant's objectives. Claimant contended Respondent Thompson engaged in investing Claimant's funds in a reckless and unsuitable manner with little or no regard for Claimant's interest goals, and needs, whereby, as a direct consequence thereof, Claimant lost over \$170,000.00 of principal while Respondents were generating commissions by churning and investing in high commission transactions such as Prudential Inconvertible, RAE Mortgage Corp, FHCMC Bonds, Amer. S. West M. Corp. and Met Life Government shares. Claimant alleged that Respondents failed to disclose information to her, violated the NASD Rules of Fair Practice, committed fraud and misrepresentation, which caused her to incur losses in her account.

Respondents maintained that Claimant has failed to provide any details as to why the investments were unsuitable in light of her investment objectives. Respondents further maintained that none of the investments purchased by Claimant, while the account was being handled by Respondent Thompson, can be considered high risk and the account suffered as a result of market forces. Respondents maintained Claimant was provided with all necessary prospectuses and risk disclosure documents regarding her investments which fully explained the nature of each of Claimant's investments. Respondents further maintained that all purchases in

Claimant's account were undertaken with her permission and pursuant to her authority and at no time did Respondents exercise discretionary control over the subject accounts.

### **RELIEF REQUESTED**

Claimant requested \$400,000.00 in compensatory damages, punitive damages of \$200,000.00, attorneys' fees and costs.

Respondents requested all claims be dismissed.

### **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. Respondents Prudential Securities, Inc. and Warren Thompson be and hereby are liable, jointly and severally, and shall pay Claimant Helen Finnell the sum of Seventy Nine Thousand Three Hundred Thirty Four dollars (\$79,334.00).
2. Claimants claims for punitive damages and churning damages are denied in their entirety.
3. Each party shall bear their own costs including attorneys' fees.

### **FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

$$\begin{aligned} &8 \text{ sessions} \times \$1,000.00 + 2 \text{ sessions (pre-hearing conferences)} \times \$300.00 \\ &= \$8,600.00 \text{ less } \$1,000.00 \text{ hearing session deposit} = \$7,600.00. \end{aligned}$$

Forum Fees Assessed Against:

Respondents Prudential Securities, Inc. and Warren Thompson be and hereby are liable, jointly and severally, and shall pay the NASD the sum of \$7,600.00 to represent forum fees.

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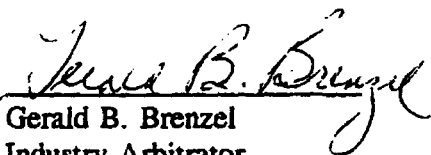
The NASD shall retain the \$250.00 filing fee and \$1,000.00 hearing session deposit previously paid by Claimant.

Fees are payable to the National Association of Securities Dealers, Inc.

**ARBITRATORS' SIGNATURE**

A handwritten signature in cursive script, reading "Hugh C. Durbin".

Hugh C. Durbin  
Public Arbitrator

A handwritten signature in cursive script, reading "Gerald B. Brenzel".

Gerald B. Brenzel  
Industry Arbitrator

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Michael M. Losavio, Esq.  
Public Arbitrator

Date of Decision: November 3, 1993

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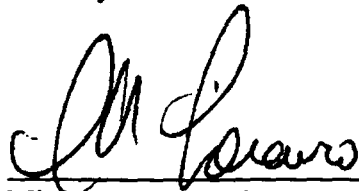
**ARBITRATORS' SIGNATURE**

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Hugh C. Durbin  
Public Arbitrator

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Gerald B. Brenzel  
Industry Arbitrator



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Michael M. Losavio, Esq.  
Public Arbitrator

/Date of Execution:

11/19/93

Date of Decision: November 3, 1993