

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

A. Gilbert and Ellen G. Turner

92-03052

Name of Respondents

Prudential Securities, Inc.  
George Alexander

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**REPRESENTATION**

For Claimant, A. Gilbert and Ellen G. Turner ("the Turners"): pro se.

For Respondents, Prudential Securities, Inc. ("Prudential") and George Alexander ("Alexander"): V. Michael Arias, Esq. of Prudential Securities, Inc.

**CASE INFORMATION**

Statement of Claim filed on: 9/11/92.

Claimant's Submission Agreement signed on: 9/24/92.

A joint Statement of Answer filed by Respondents on: November 30, 1992.

Respondent, Prudential's, Submission Agreement and Corporate Acknowledgment signed on: 11/24/92 by Kathy M. Klock on behalf of Prudential.

Respondent, Alexander's, Submission Agreement signed on: 11/18/92.

**HEARING INFORMATION**

On May 21, 1993, in Tampa, Florida, a hearing lasting one session was conducted.

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### **CASE SUMMARY**

Claimants alleged that they are retirees who were induced by Respondent, Alexander to switch their account from NCNB to Prudential in August of 1991 and that thereafter Alexander recommended that they purchase investments for their account that were unsuitable. Claimants alleged that Alexander recommended that they invest in Global income funds and the futures market but that in just 7 1/2 months the stock dropped about 15 points causing Claimants a loss in income of \$900.00 a month. Claimant further alleged that within a short time they lost \$3,200 in the futures market. Claimants also stated that when they liquidated their account they were charged a liquidation fee of 3% which Claimants felt was excessive.

Respondents denied all allegations of wrongdoing contained in the Statement of Claim and maintained that Claimants were given a prospectus which described the characteristics of the fund and attendant risks and explained that a 3% charge would be assessed if the shares of the funds were redeemed within one year of the purchase. Respondents further maintained that the Global Income fund was suitable for Claimants and that Claimants received over \$20,900 in dividends or 9% annualized return during the seven months that they held the fund. Respondents also stated that Claimants were fully aware of the risks involved in trading in the futures market and that all trades were discussed and approved by them prior to execution. Respondents contended that Claimants' losses in futures trading resulted from market conditions beyond the control of Respondents.

### **RELIEF REQUESTED**

Claimants requested damages of \$17,499.23 including liquidation costs, income loss and stock loss.

Respondents requested dismissal of the Claim in all respects.

### **OTHER ISSUES CONSIDERED & DECIDED**

At the hearing, due to a lack of recording equipment, the arbitrator gave the parties the opportunity to reconvene at a later hour and obtain tapes or waive the record. The parties elected to waive the record and proceed with the hearing.

### **AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are found not liable and, therefore, all Claims against them are hereby dismissed.

**OTHER COSTS**

The parties shall each bear their own costs incurred in connection with this proceeding including attorneys fees.

**FORUM FEES**

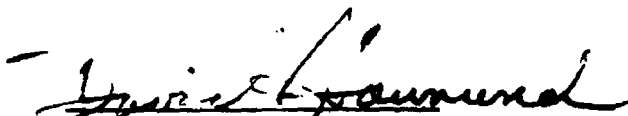
Pursuant to Section 43c of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of \$300.00 (One Session X \$300.00 per session).

Claimant is hereby assessed forum fees in the amount of \$300.00 for which the NASD shall retain the \$300.00 previously deposited by Claimants in full satisfaction thereof.

The NASD shall retain the non-refundable filing fee of \$100.00 paid by Claimants.

**ARBITRATOR**

**Arbitrator's Signature**

  
David A. Townsend, Esq.  
(Sole Public Arbitrator)

Date of Decision: 7-6-93