

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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**In the Matter of the Arbitration Between**

**Name of Claimants**

Dr. William B. and Nancy P. Shannon

95-00096

**Name of Respondents**

Prudential Securities Inc  
Richard R. Jarman

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**REPRESENTATION**

For Claimants Dr. William B. Shannon and Nancy P. Shannon ("Claimants"): J. Michael Mulvaney, Esq., of the law firm of James, McElroy & Diehl, Charlotte, NC

For Respondents Prudential Securities Inc. ("Prudential") and Richard R. Jarman ("Jarman") at the hearing: Jay S. Bilas, Esq., of the law firm of Moore & Van Allen, Charlotte, NC

**CASE INFORMATION**

Statement of Claim filed January 9, 1995  
Claimants' Submission Agreements signed on December 29, 1994

Joint Answer of Prudential and Jarman (collectively "Respondents") filed March 6, 1995  
Prudential's Submission Agreement signed February 28, 1995  
Jarman did not execute a Submission Agreement

**HEARING INFORMATION**

Hearing Dates/Sessions: December 13, 1995/2 sessions  
December 14, 1995/2 sessions

Hearing Location: Charlotte Hilton Executive Park  
Charlotte, NC

**CASE SUMMARY**

Claimants alleged, among other things, that Respondents managed Claimants' account in a negligent manner. Claimants alleged that Respondents breached their fiduciary duty to Claimants. Claimants alleged they are unsophisticated investors whom Respondents induced to purchase unsuitable long-term municipal bonds. Claimants

alleged that they repeatedly informed Respondents that Claimants' primary investment objective was conservative long-term growth, with income a secondary objective. Claimants alleged that Respondents fraudulently omitted information about the risks associated with the long-term municipal bond market, the impact of interest rates on their investments, and the necessity of diversification within Claimants' portfolio. Claimants alleged that Jarman maintained a portion of Claimants' portfolio in a discretionary account over which Jarman had full control. Claimants alleged that Respondents failed to terminate Claimants' accounts and transfer Claimants' portfolio to another account manager when requested to do so. Claimants alleged that the actions and omissions of Respondents damaged them financially.

Respondents categorically denied all allegations of wrong-doing and fraud. Respondents maintained that Claimants are sophisticated investors trading in numerous accounts at three different brokerage firms for more than ten years. Respondents maintained that the investment purchases Claimants made with Respondents were consistent with purchases Claimants made prior to transferring their accounts to Prudential. Respondents maintained that Claimants received full and complete information about market fluctuations when holding long-term municipal bonds. Respondents maintained that Claimants authorized all purchases. Respondents maintained that at no time did Respondents possess any discretionary control over Claimants' assets. Respondents maintained that Prudential did not refuse to terminate or transfer Claimants' accounts. Respondents maintained that after Claimants received bids on Claimants' bonds, Claimants made the decision not to sell. Respondents maintained Claimants regularly received confirmation slips and monthly account statements, and that Claimants made no complaints of unsuitable transactions or misrepresentations at the time they received those documents. Respondents maintained that any losses suffered by Claimants were as a result of Claimants' own actions and market conditions.

#### RELIEF REQUESTED

Claimants requested at the hearing damages in the amount of \$84,836 plus interest, costs of the arbitration and reasonable attorney fees, as well as punitive damages.

Respondents requested that the Statement of Claim be dismissed in its entirety and that Respondents be awarded reasonable attorney fees and the costs of this arbitration.

#### OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. The parties have agreed to receive conformed

copies of the Award while the original remains on file with the NASD.

Jarman did not have a properly executed submission agreement on file. However, having filed an answer and verbally consented to submit to the arbitration, pursuant to Section 12 of the NASD Code of Arbitration Procedure (the "Code"), the Panel ruled that Jarman is bound by the determination of the arbitrators.

Claimants made a preliminary Motion to Strike Respondents' Answer, and to Strike Respondents' Exhibits at the hearing pursuant to Section 32 of the Code, and requested that the Panel sanction Respondents. Having listened to the evidence, the Panel determined that the Motions to Strike were denied and the Answer and Exhibits would be allowed to be submitted. The Panel deferred any decision on sanctions until the close of the hearing.

Having heard the evidence in this case and the arguments of both parties, the Panel determined that sanctions will be imposed against Prudential. (See Forum Fees section below.)

#### 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. Claimants' Claim is denied in its entirety.
2. Claimants' request for punitive damages is denied.
3. The parties shall bear their own costs, including attorney's fees, except as specifically addressed herein.
4. Any and all relief not specifically addressed is denied in its entirety.

#### FORUM FEES

Pursuant to Section 43(c) of the Code, the following Forum Fees are assessed.

4 sessions X \$500.00 = \$2,000.00

Forum fees are assessed against Prudential. Prudential is liable to Claimants and shall reimburse Claimants for the \$150.00 filing fee as well as the \$500.00 hearing session deposit previously filed with the NASD. Prudential shall pay to the NASD, the remaining forum fees, in the amount of \$1,500.00.

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

**DATE**

12/21/95

**CONCURRING ARBITRATORS' SIGNATURES**

Jeff R. Truluck  
Jeff R. Truluck, Presiding  
Public Arbitrator

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George Szontagh  
Public Arbitrator

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William W. Marchant, Jr.  
Industry Arbitrator

Date Award served by the NASD: December 22, 1995

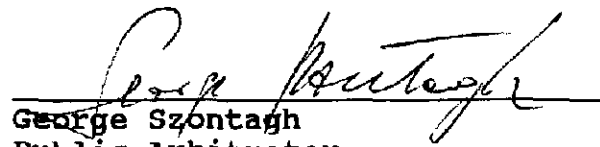
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Public Arbitrator

Dec. 20 1995

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