

JENNISON ASSOCIATES CAPITAL CORPORATION

Publicly Available December 2, 1985

SEC LETTER

Advisers Act Sec. 205(2)

October 31, 1985

On the basis of the facts presented in your letter of October 9, 1985, we would not recommend any enforcement action to the Commission under section 205(2) and section 206 of the Investment Advisers Act of 1940 if Jennison Associates Capital Corp. ("Jennison") proceeds in the manner described in your letter.

Elizabeth T. Tsai
Special Counsel

INCOMING LETTER

October 9, 1985

**Securities and Exchange Commission
Division of Investment Management
Office of Chief Counsel
450 Fifth Street
Washington, D.C. 20549
Attention: Elizabeth T. Tsai
Special Counsel**

**No Action Request
Section 205(2) of Investment Advisers Act**

Dear Sirs:

As counsel to Jennison Associates Capital Corp., a New York corporation ("Jennison"), we request the Division to confirm that it would not recommend any action by the Securities and Exchange Commission (the "Commission") under the Investment Advisers Act of 1940, as amended (the "Advisers Act"), with respect to the manner, described below, in which Jennison shall obtain the consents of its various clients to an assignment of their respective advisory contracts with Jennison.

Jennison is an investment advisory firm registered under the Advisers Act. Jennison serves as investment adviser to approximately 150 clients, most of which are corporate pension funds. Each of Jennison's investment advisory contracts with its clients provides, in accordance with Section 205(2) of the Advisers Act, that Jennison shall not assign such contract without the consent of the client party to the contract.

On September 16, 1985, all of the stockholders of Jennison entered into a negotiated Stock Purchase Agreement with The Prudential Insurance Company of America, a mutual life insurance company organized under the laws of the State of New Jersey ("Prudential"), providing for the sale of all of the outstanding capital stock of Jennison to Prudential. The sale of such capital stock, presently scheduled to close on December 19, 1985, will be deemed to constitute an assignment, as defined in Section 202(a)(1) of the Advisers Act, of Jennison's investment advisory contracts.

Each of Jennison's clients was informed of the proposed transaction with Prudential by copy of a letter from Jennison, dated September 23, 1985, in the form attached hereto as Exhibit A. That letter advises

Jennison's clients of the "assignment" of their investment advisory contracts with Jennison, states that their consent is required for the continued performance of such investment advisory contracts and requests such consent.

Each client that does not respond to such letter within sixty days of its mailing will be sent a second letter, in the form attached hereto as Exhibit B. The second letter states that Jennison will continue to provide investment advice to the applicable client, pursuant to Jennison's existing contract with such client, subject to the client's right to terminate such contract within 45 days after the date of the second letter. The second letter also states that if the client does not so terminate its contract with Jennison, Jennison will assume that the client has consented to the assignment of such contract and the continuation of Jennison's provision of investment advice. The staff of the Commission has endorsed this method of obtaining the consent of an investment adviser's clients to the continued provision of investment advice by such investment adviser. See Scudder, Stevens & Clark (avail. March 18, 1985); Funds, Inc. (avail. March 3, 1972).

On the basis of the foregoing, we request you to confirm that you will not recommend action by the Commission if Jennison acts as investment adviser to existing clients pursuant to the notice and consent procedure described above. Please do not hesitate to call the undersigned collect (212-909-6273), James M. Schell (212-909-6457) or Reynolds W. Holding (212-909-6547) of this office, should you have any questions, or require any additional information, concerning the foregoing. We specifically request that you contact us prior to transmitting any written response declining to concur in any part of this opinion.

Very truly yours,

Louis Begley