

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Prudential Securities Inc.

vs.

Case #
92-03674

Name of Respondent

Philip C. Puccio

REPRESENTATION

For Claimant: Gilbert W. Boyce, Esq. and Joseph Ingrisano, Esq. of Kutak Rock.

For Respondent: Franklin D. Ormsten, Esq. of Ormsten & Evangelist

CASE INFORMATION

Statement of Claim filed: October 29, 1992.

Claimant's signed Submission Agreement was not dated.

Statement of Answer filed by Respondent, Philip Puccio on: December 16, 1992.

Respondent, Philip Puccio's Submission Agreement signed on: January 6, 1993.

HEARING INFORMATION

Hearing Date/Sessions: January 18, 1994/Two sessions

Hearing Location: NASD offices located in New York City.

CASE SUMMARY

Claimant alleges that it lent Respondent the sum of \$157,000. Claimant also alleges that Respondent was given a promissory note ("Note") at the time he received the loan but never signed and returned the Note as he agreed to do.

Claimant further alleges that Respondent voluntarily resigned and has failed and refused Claimant's demands for amounts due and owing under the Note.

Respondent maintains that Claimant approached him and induced him to leave his previous employment. Respondent also maintains that he was promised an annual income of \$750,000 by Claimant and that nothing was said about payment in the form of anything but cash. Respondent further maintains that around December of 1989 he learned that notes and stock were to play a major part of his remuneration. Respondent further maintains that he was informed that he would be receiving a year-end bonus of \$450,000, consisting of special stock, a bonus check and a loan. Respondent further maintains that he rejected the \$157,000 Note and declined to accept it but Edward Braniff, of Prudential told him that he deserved the \$157,000 and not to worry about the Note.

Respondent also filed a Counterclaim in which he seeks to recover: \$112,500, due and owing on his bonus of 1989; \$470,000, representing the difference between what he earned in 1991 (\$280,000) and the \$750,000 he would have earned had he remained employed by Claimant, and; \$550,000, representing the difference between what he expects to earn in 1992 (\$200,000) and the \$750,000 he would have earned with Claimant.

RELIEF REQUESTED

Claimant requests an award in the amount of \$216,836, plus interest at the rate of 9%, costs and such other relief as the Panel deems just and proper.

Respondent requests that the Claim be dismissed in its entirety, and that Respondent be granted an award in the total sum of \$1,132,500.

OTHER ISSUES CONSIDERED & DECIDED

Claimant requested an adjournment of the initial hearing dates scheduled for June 21 and 22, 1993. Claimant's request was granted and, the Panel waived the fees pursuant to Section 30 of the NASD Code of Arbitration Procedure. Claimant requested that the hearings scheduled for November 4 and 5, 1993 be postponed. The panel granted this request and assessed a \$600.00 postponement fee.

Respondent requested an adjournment of the rescheduled hearing dates. Respondent's request was granted and fees were waived pursuant to Section 30 of the NASD Code of Arbitration Procedure.

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:

- a) Respondent is hereby liable and shall pay to Claimant the sum of **ONE HUNDRED FIFTY SEVEN THOUSAND DOLLARS (\$157,000)**.
- b) Claimant's request for interest is hereby denied.
- c) Claimant's request for attorneys' fees is hereby denied.
- d) Respondent's Counterclaim is dismissed in its entirety.

FORUM FEES

Pursuant to Section 44(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed.

Non-refundable Filing Fee: \$500.00.

Non-refundable Counterclaim Filing Fee: \$500.00.

Hearing Session Fees: \$2,000.00 (\$1,000.00 x 2 sessions).

1. Claimant is assessed \$500.00 non-refundable claim filing fee. Claimant is further assessed \$2,000.00 in hearing session fees. Claimant deposited \$1,250.00. Claimant shall satisfy this balance by reimbursing Respondent \$1,000.00 and by remitting \$250.00 to the NASD.
2. Respondent is assessed a \$500.00 non refundable Counterclaim filing fee. Respondent previously deposited \$1,500.00 and is entitled to a refund of \$1,000.00.

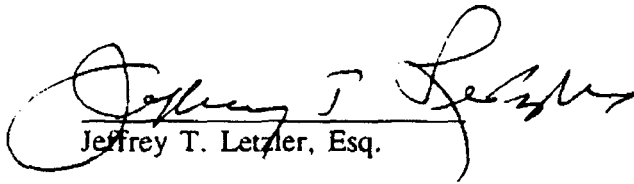
ARBITRATION PANEL

Jeffrey T. Letzler, Esq. - Industry Chairperson

Vicki Z. Hollerman, Esq. - Industry Panelist

S. Newton Feldman - Industry Panelist

Concurring Arbitrator's Signature


Jeffrey T. Letzler, Esq.

Executed on:
~~Date of Decision:~~ 2/22/94
Date of Decision: March 16, 1994

STATE OF New York s.s.:
COUNTY OF New York

On this 22 day of February, 1994, before me personally appeared Jeffrey T. Letzler known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.


Denise P. Stratton

DENISE P. STRATTON
Notary Public, State of New York
No. 01ST5018895
Qualified in Richmond County
Commission Expires October 12, 1998

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Concurring Arbitrator's Signature

S. Newton Feldman
S. Newton Feldman

Date of Decision: March 16, 1994

STATE OF new York s.s.:
COUNTY new York

On this 25th day of February, 1994, before me personally appeared S. Newton Feldman to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

Spitta P. Minicich

SPITTA P. MINICICH
Notary Public for the State of New York
No. 51460-1200
Qualified in New York County
Commission Expires August 31, 1995

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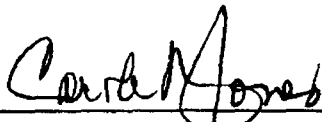
Concurring Arbitrator's Signature


Vicki Z. Holleman, Esq.

Date of Decision: March 16, 1994

STATE OF New York s.s.:
COUNTY New York

On this 23rd day of February, 1994, before me personally appeared Vicki Z. Holleman to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.


CAROLE R. JONES
Notary Public, State of New York
No. 24-4731883
Qualified in Kings County
Commission Expires Nov. 30, 1994