

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Prudential-Bache Securities Inc.

92-03976

Name of Respondent

Geri Kubiesa

REPRESENTATION

Claimant, Prudential-Bache Securities, Inc. was represented by Jill Byrne, Esq. of Kutak Rock, Washington, D.C.

Respondent, Geri Kubiesa was represented by Gregory A. Friedman, Esq. of Friedman & Holtz, P.C., Chicago, Illinois.

CASE INFORMATION

The Statement of Claim was filed with the National Association of Securities Dealers, Inc. ("NASD") by Claimant, Prudential-Bache Securities, Inc. on November 23, 1992.

Claimant, Prudential-Bache Securities, Inc.'s Submission Agreement was signed but not dated by Stephen J. Shine, Vice President of Prudential Securities Corporation.

The Statement of Answer was filed with the NASD by Respondent, Geri Kubiesa on February 12, 1993.

Respondent, Geri Kubiesa's Submission Agreement was signed on February 10, 1993.

HEARING INFORMATION

A telephonic Pre-Hearing Conference lasting for one (1) hearing session was held on August 6, 1993.

The Hearing was held on August 18, 1993 and lasted for two (2) hearing sessions.

The Hearing Location was Chicago, Illinois.

CASE SUMMARY

Claimant, Prudential Securities Incorporated ("Prudential") alleged that Respondent, Geri Kubiesa ("Kubiesa") commenced her employment with Prudential on or about April 22, 1983. In February of 1990, Kubiesa received a loan from Prudential in the sum of Eleven Thousand Dollars. At the same time Kubiesa was provided with a promissory note to sign. Prudential alleged that although Kubiesa accepted and cashed the check, she never signed and returned the promissory note as she agreed to do. Prudential asserted that Kubiesa was obligated by the terms of the note to repay the loan amount with interest at 9% per annum, without notice, protest, presentment or demand, in equal installments of \$3,666.66 each on the last days of February 1991, 1992 and 1993, or, upon the termination for any reason whatsoever of her employment with Prudential. Prudential asserted that Kubiesa voluntarily resigned from Prudential on June 8, 1990 approximately four months after receiving the loan. Prudential asserted that despite demand, Kubiesa has refused to repay the amounts owed to Prudential.

Kubiesa alleged that the money received from Prudential was compensation and not a loan and that she does not owe the money to Prudential because she did not sign or otherwise make her mark on the note and that she was never informed that she was obligated to repay the money to Prudential during her employment.

RELIEF REQUESTED

Prudential requested the sum of \$11,660.00 plus interest at the rate of 9% per annum from February 28, 1990 until the date of payment, costs of collection of the proceeding and such other relief as the panel deems just and proper.

Kubiesa requested that the claim be dismissed in its entirety and that she be awarded her reasonable attorney's fees and costs and such other relief as the panel deemed just and proper.

OTHER ISSUES CONSIDERED AND 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. In either

case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

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. Kubiesa is liable for and shall pay to Prudential, without interest, the sum of Seven Thousand Dollars and No Cents (\$7,000.00); and,
2. The parties shall each bear their own costs, expenses and attorney's fees.

FORUM FEES

Pursuant to Section 44c of the Code of Arbitration Procedure, the following Forum Fees are assessed. The NASD shall retain the \$500.00 non-refundable filing fee and the \$600.00 hearing session deposit previously paid to the NASD by Prudential. Prudential is assessed additional Forum Fees in the amount of \$900.00 which fees are payable to the National Association of Securities Dealers, Inc.

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Forum Fees were assessed on the basis of \$600.00 per hearing session for two hearing sessions and \$300.00 for the single session pre-hearing conference.

Concurring Arbitrators' Signatures
Name

<u>/S/ James E. Green</u>	<u>August 18, 1993</u>
James E. Green, Esq.	Dated
Presiding Chairperson	
Industry Arbitrator	

<u>/S/ Gery Sadzewicz</u>	<u>August 18, 1993</u>
Gery Sadzewicz	Dated
Panelist	
Industry Arbitrator	

<u>/S/ Cynthia J. Graham</u>	<u>August 18, 1993</u>
Cynthia J. Graham	Dated
Panelist	
Industry Arbitrator	

Date award served on the parties: August 19, 1993

Date of Decision: August 18, 1993