

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Marion D. Sherrill
Thomas Diggs, Jr.
Michael J. Price
Jec J. Cooper

93-00090

Name of Respondent(s)

Prudential Securities Inc

REPRESENTATION

For Claimants: Gerald B. Kline, Esq., of the law firm of Gerald B. Kline, P.C., Atlanta, GA; Melvin L. Hewitt, Jr., Esq., of the law firm of Isenberg and Hewitt, P.C., Atlanta, GA.

For Respondent Prudential Securities, Incorporated ("Prudential"): Paul W. Stivers, Esq., Laura H. Robison, Esq., of the law firm of Rogers and Hardin, Atlanta, GA.

CASE INFORMATION

Statement of Claim filed on January 11, 1993.

First Amendment to Statement of Claim filed on September 9, 1993.

Claimant Marion D. Sherrill's Submission Agreement signed on: December 4, 1992.

Claimant Thomas Digg's Submission Agreement signed on: December 4, 1992.

Claimant Michael J. Price's Submission Agreement signed on: December 7, 1992.

Claimant Jec J. Cooper's Submission Agreement signed on: December 7, 1992.

Claimants' Response to Respondent's Counterclaim filed on: March 26, 1993.

Statement of Answer and Counterclaim filed by Respondent Prudential Securities, Inc. on: March 8, 1993.

Respondent Prudential Securities, Inc.'s Submission Agreement signed on: March 4, 1993.

Respondent's Proposed Amendment to Counterclaim filed on: May 31, 1994.

HEARING INFORMATION

Pre-hearing conference:	April 4, 1994 - full panel
Hearing Dates/Sessions:	June 8, 1994 - Two Sessions
	June 15, 1994 - Two Sessions
	June 16, 1994 - Two Sessions
	August 24, 1994 - Two Sessions
	August 25, 1994 - One Session

Hearing Location: NASD offices located in Atlanta, GA.

CASE SUMMARY

This arbitration proceeding was initiated by four Claimants - Marion D. Sherrill, Thomas Diggs, Jr., Michael J. Price, and Jec J. Cooper. Respondent Prudential Securities, Inc. filed a counterclaim against all four Claimants. Messrs. Sherrill, Price and Cooper reached a compromise with Respondent Prudential regarding the claims raised in the Statement of Claim as well as the claims raised in the Statement of Answer and Counterclaim. The claims raised by Claimant Diggs as well as the claims asserted by Respondent Prudential Securities, Inc. were heard and resolved by the Panel.

Mr. Diggs' claims stem from the termination of his employment by Prudential Securities, Inc. Those claims are: breach of his employment contract; breach of an implied duty of good faith and fair dealing in developing Diggs' career and providing support in fulfillment of his employment contract; breach of a representation of specialized training; race and age discrimination in violation of federal statute and the Constitution of the United States; wrongful termination; interference with Diggs' business relationships with his customers and conversion of customer accounts; injury to Diggs' reputation by malicious acts of libel and slander; obstruction and delay in the orderly transfer of Diggs' securities licenses;

fraudulent misrepresentation to induce Diggs to voluntarily resign his employment; emotional distress; and bad faith, causing unnecessary trouble and expense and intending to cause harm through conscious indifference to consequences.

Respondent Prudential denied liability to Claimant Diggs and raised the following affirmative defenses: failure to state a claim; failure to mitigate damages; unclean hands; good faith and legitimate business reasons for its conduct; statute of frauds, estoppel, lack of consideration and lack of mutuality of obligation; and statute of limitations. Further, Respondent asserted a counterclaim against claimant Diggs for breach of his employment contract and failure to pay amounts due under a promissory note.

In response to the counterclaim Claimant Diggs maintained he properly and capably performed all of his obligations, duties and responsibilities as a registered representative of Prudential Securities, Inc. and he did not engage in unprofessional business practices.

RELIEF REQUESTED

In his Statement of Claim, Claimant Diggs requested compensatory damages of not less than \$150,000.00, consequential damages for post-termination expenses and losses incurred in connection with re-employment; damages for race and age discrimination in employment; that his promissory note in favor of Prudential Securities, Inc. be declared null and void; that he be awarded reinstatement to his position or to a comparable position or, alternatively, that he receive front pay for a reasonable period; liquidated damages in an amount equal to his compensatory damages, punitive damages, an award of attorneys' fees plus costs and injunctive relief plus a dismissal of the counterclaim and such other and further relief as is just and equitable.

In its Statement of Answer and Counterclaim, Respondent Prudential requested a dismissal of all claims and an award of \$30,079.00, plus interest, for non-payment of the promissory note, together with attorneys' fees, as well as \$8,579.00 to reimburse Prudential for monies paid to customers in settlement of claims.

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: with respect to Claimant Diggs' claims against Respondent Prudential, the Panel finds for Respondent

Prudential Securities, Inc. Claimant Thomas Diggs is not entitled to any award against Respondent Prudential Securities, Inc. The Claimant Diggs' claim for punitive damages is also denied. With respect to the claims by Prudential Securities, Inc. against Claimant Thomas Diggs, the Panel finds for Claimant Thomas Diggs. Each party shall bear their respective costs including attorneys' fees.


FORUM FEES

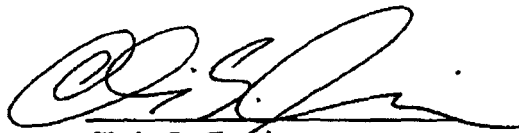
Pursuant to Section 44(c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

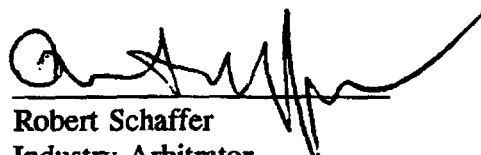
10 sessions x \$1,000.00 = \$10,000.00 less Claimants' hearing session deposit (\$1,000.00) less Respondent's hearing session deposit (\$750.00)
= net \$8,250.00 due.

The Claimant Thomas Diggs be and hereby is liable and shall pay to the NASD the sum of \$4,000.00 representing the balance of the forum fees and the Respondent Prudential Securities, Inc. be and hereby is liable and shall pay to the NASD the sum of \$4,250.00 representing the balance of the forum fees.

ARBITRATOR' SIGNATURE


Sara Anne Ford, Esq.
Industry Arbitrator


Chris S. Guérin
Industry Arbitrator


Robert Schaffer
Industry Arbitrator

Date of Decision: November 14, 1994