

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration Between

**Name of Claimant**

Prudential Securities, Inc.

vs.

NASD Case No.  
93-01586

**Name of Respondent**

Mark J. Schroeder

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**REPRESENTATION**

For Claimant, Prudential Securities Inc. ("Claimant"), David L. Becker, Esq. from the law firm of Kutak Rock located in New York, New York.

For Respondent, Mark J. Schroeder ("Respondent"), Andrew Liput, Esq. from the law firm of Hartman, Buhrman & Winnicki located in Paramus, New Jersey.

**CASE INFORMATION**

Statement of Claim filed on April 19, 1993.

Claimant's Submission Agreement signed on April 15, 1993.

Statement of Answer filed by Respondent on May 27, 1993.

Respondent did not execute a Submission Agreement.

**HEARING INFORMATION**

Pre-Hearing Conference: May 2, 1994 - 1 Session

Hearing Date/Sessions: September 8, 1994 - 2 Sessions

Hearing Location: NASD Offices, 33 Whitehall Street, New York, NY

### **CASE SUMMARY**

Claimant alleges that in February 1991, it lent Respondent, an employee, \$22,000.00 and Respondent executed a promissory note which required him to repay \$22,000.00 plus interest at 8.5% per annum, in equal installments of \$7,333.00 each, on the last day of February 1992, 1993 and 1994 or upon termination of his employment with Claimant.

Claimant maintains that on or about March 11, 1991, when Respondent voluntarily resigned, the loan plus accrued interest became due and Respondent has made no payments on the loan. On February 24, 1993, Claimant sent Respondent a letter demanding amount due on the Note but Respondent refuses to pay.

Respondent alleges that Claimant's claim is an attempt to perpetuate a fraud and that he does not owe anything. Respondent claims that the money was part of his bonus for the 1990 fiscal year which was issued under the pretense of being a loan. Respondent claims that he signed the Note, the terms of which were "NOT" negotiable, under duress and as part of a scheme to save Claimant taxes.

Respondent protested the amount of the bonus and the use of the Note. He claims that his supervisor assured him that the terms of the Note would not be enforced if his employment with Claimant terminated during the next three years. Respondent states that on February 25, 1991, he tendered his resignation to become effective March 11, 1991.

Respondent contests the jurisdiction of this forum and insists that his rights be heard before a court.

### **RELIEF REQUESTED**

Claimant requests \$22,000.00, the amount of the 1991 Note, interest on the Note at 8.5% from February 28, 1991 until the date of payment, and the costs of collection and of this proceeding.

Respondent requests the claim against him be dismissed and that he be permitted to pursue this matter in court.

### **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. Respondent, Mark J. Schroeder, is liable and shall pay the sum of Twenty Two Thousand Dollars (\$22,000.00) to Claimant, Prudential Securities, Inc.
2. Each party shall bear the cost of its own attorneys' fees.
3. The Claimant shall bear the cost of all forum fees.

### **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
Hearing session fee (2 x \$600.00)	1,200.00
Award Request by Claimant	40.00
Pre-hearing conference fee (1 x \$300)	300.00
Total Fees	\$2,040.00

Claimant paid \$1,140.00 and owes \$900.00.

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

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**ARBITRATION PANEL**

Theodore Kimmelman - Industry Chairperson

Thomas A. Turley - Industry Panelist

Alexander Stewart Barnes - Industry Panelist

Dissenting Arbitrator's Signature

Alexander Stewart Barnes  
Alexander Stewart Barnes

Industry Panelist

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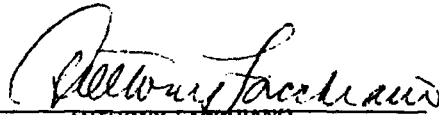
NASD Case No. 93-01586

STATE OF: *New York*

COUNTY OF: *Putnam*

SS:

On this *26<sup>th</sup>* day of *Oct*, 1994, before me personally appeared **Alexander Stewart Barnes** known and 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.



ANTHONY FACCHIANO  
Notary Public, State of New York  
No. 40-1148225  
Qualified in Putnam County  
Commission Expires *5-31-95*

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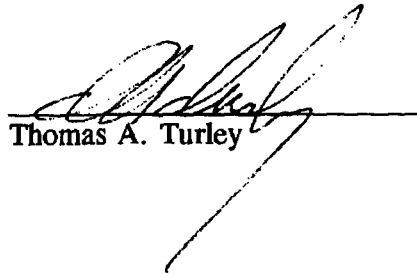
**ARBITRATION PANEL**

Theodore Kimmelman - Industry Chairperson

Thomas A. Turley - Industry Panelist

Alexander Stewart Barnes - Industry Panelist

Concurring Arbitrator's Signature



Thomas A. Turley

Industry Panelist

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NASD Case No. 93-01586

STATE OF: *New York*  
COUNTY OF: *Westchester*

SS:

On this *26<sup>th</sup>* day of *October*, 1994, before me personally appeared **Thomas A. Turley** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that the executed the same.

*Norma Ponce*

**NORMA PONCE**  
**Notary Public, State of New York**  
**No. 60-4876966**  
**Qualified in Westchester County**  
**Term Expires Feb. 28, 1995**

**ARBITRATION PANEL**

Theodore Kimmelman - Industry Chairperson

Thomas A. Turley - Industry Panelist

Alexander Stewart Barnes - Industry Panelist

Concurring Arbitrator's Signature

  
Theodore Kimmelman

Industry Chairperson



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NASD Case No. 93-01586

STATE OF: *NEW YORK*

COUNTY OF: *NASSAU*

SS:

On this *27* day of *OCTOBER*, 1994, before me personally appeared **Theodore Kimmelman**, know and 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.



GLORIA HEWITT  
NOTARY PUBLIC, State of New York  
No. 01-8084865  
Qualified in Nassau County  
Commission Expires April 30, 1996