

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Prudential Securities, Inc.

94-00709

Name of Respondent

John Nathaniel

REPRESENTATION

Claimant Prudential Securities, Inc. ("PSI") was represented at the hearing by Christopher Freeze, Esq. of PSI of New York, New York.

Respondent John Nathaniel ("Nathaniel") appeared at the hearing pro se.

CASE INFORMATION

The Statement of Claim was filed with the NASD by Claimant PSI on February 24, 1994. The Uniform Submission Agreement was signed by Gary Klein, Vice President and Associate General Counsel, on behalf of PSI on February 22, 1994.

Respondent Nathaniel did not file an answer to the Statement of Claim, and did not execute a Uniform Submission Agreement. (See Other Issues).

HEARING INFORMATION

The hearing was held on May 3, 1995, at the Holiday Inn Downtown Center City Hotel in Philadelphia, Pennsylvania for a total of one (1) hearing session .

CASE SUMMARY

Claimant PSI alleged in its Statement of Claim that on or about June 23, 1993, Respondent Nathaniel voluntarily entered into an employment agreement with PSI and executed a promissory note ("the Note"). PSI asserted that by the terms of the employment agreement and the Note, PSI was obligated to pay Nathaniel transitional compensation in the amount of \$37,900 in forty-three (43) equal monthly installments of \$881.40 plus additional compensation to be paid monthly equal to 6% of the total

transitional compensation less the amount of any installment(s) paid earlier, and that Nathaniel was obligated to repay \$37,900 plus interest at 6% per annum in forty-three (43) equal installments of \$881.40 at the end of each commission month beginning with the month of November 1993, and ending with the last commission month of May 1997. PSI claimed that the Note provided that the loan would become immediately due and payable upon the termination, for whatever reason, of Nathaniel's employment with PSI, and that the employment agreement provided that Nathaniel would not be entitled to any unearned transitional compensation should he resign or be terminated for cause prior to completing four years of employment. PSI stated that on or about October 15, 1993, Nathaniel was terminated for cause from PSI for an allegedly misrepresenting his educational background on his employment application. PSI alleged that Nathaniel is in default on the promissory note in the sum of \$37,900, plus interest.

Respondent Nathaniel did not file an answer to these allegations.

RELIEF REQUESTED

Claimant requested damages in the amount of \$37,900 plus interest, costs, attorney fees, and such other relief deemed proper.

Respondent Nathaniel did not file an answer and did not state a relief.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file and the representations made on behalf of the Claimant, the panel has determined that Respondent Nathaniel has been properly served with the Statement of Claim pursuant to Section 25 of the NASD Code of Arbitration Procedure (the "Code"). The panel also determined that Respondent Nathaniel had received due notice of the hearing as required under Section 26 of the Code.

Respondent Nathaniel did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure (the "Code").

On September 2, 1994, Claimant PSI filed a request that Respondent Nathaniel be precluded from filing an Answer and be barred from presenting any facts or defenses at hearing pursuant to Section 25(b)(2)(iii) of the Code. Respondent Nathaniel did not file a response to the request. After due deliberation, the panel decided to deny Claimant's request.

The parties have agreed that the Award in this matter may be executed by counterpart copies. The parties have also agreed to receive conformed copies of the Award while the original remains 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. Respondent, shall be liable for, and shall pay to Claimant damages for out-of-pocket losses in the sum of Thirty-Seven Thousand Nine Hundred Dollars and No Cents (\$37,900.00).
2. Respondent, shall be liable for, and shall pay to Claimant interest to date of Four Thousand One Hundred Sixty-Nine Dollars and No Cents (\$4,169.00).
3. Respondent, shall be liable for, and shall pay to Claimant, attorneys fees and costs in the amount of Three Thousand Four Hundred Sixty-Eight Dollars and Seventy-Five Cents (\$3,468.75).
4. Each of the parties shall bear their own costs and expenses incurred, other than those specifically provided for herein.
5. Any relief not specifically provided for herein is denied.

FORUM FEES

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

1 hearing sessions x \$600 = \$600.

Pursuant to Section 44(c) of the Code, the NASD shall retain the non-refundable filing fee in the amount of \$500, and the hearing session deposit in the amount of \$600 previously paid to the NASD by Claimant.

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

By The Arbitration Panel:

Dated:

5/3/95

/s/

A. Louis Denton, Esq., Presiding
Industry Arbitrator

5/3/95

/s/

Jeffrey Steinberg
Industry Arbitrator

5/3/95

/s/

Louis H. Miron
Industry Arbitrator

Date Award Served By the NASD: May 4, 1995