

**NATIONAL ASSOCIATION OF SECURITIES DEALERS  
AWARD**

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In the Matter of the Arbitration Between

PRUDENTIAL SECURITIES, INC.

Claimant and Counter-Respondent,

v.

NASD No. 94-2305

ARVID LOCKENSGARD,

Respondent and Counter-Claimant.

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***Representation***

For Claimant: Patricia Fitzpatrick, Esq. of Prudential Securities, Inc., New York, New York

For Respondent: Louis DeMers, Esq. of DeMers, Callison & Donovan, Sacramento, California

***Case Information***

Statement of Claim filed: June 2, 1994

Claimant's Submission Agreement signed: June 2, 1994

Statement of Answer filed on: September 2, 1994

Respondent's Submission Agreement signed on: August 18, 1994

***Hearing Information***

Prehearing Conference Date(s)/Sessions: January 6, 1995/one

Hearing Date/Sessions: January 10, 1995/two, February 13, 1995/two

Hearing Location: San Francisco, California

### *Case Summary*

Claimant alleged:

Breach of contract in the failure of Respondent to pay the balance of a loan taken from Claimant Prudential Securities (PSI). Respondent entered into an employment agreement on October 23, 1992 and was loaned \$87,418, evidenced by a promissory note. On March 31, 1994, Respondent resigned from PSI with a balance of \$68,351.18 of the loan outstanding, which he has refused to pay.

Respondent denied each and every substantive allegation of wrongdoing in the Claim and alleged in his Answer and Counter-Claim:

Fraud in the inducement of the employment relationship and contract alleged in the Claim. In October of 1992, Respondent was induced to leave his employment with PaineWebber predicated upon representations made by PSI, including the following: 1) Roseville office of PSI would be opened under the management of Bruce McLean and Respondent's employment would be in that locale; 2) PSI would provide efficient operations support; 3) PSI would competently handle all transactions and the transferring of client's accounts; 4) PSI's existing legal matters had been resolved; 5) PSI was "user friendly," and ethical. These representations were not true as Respondent subsequently learned. PSI further conspired to take from Respondent his established business; upon his termination, PSI attempted to acquire Respondent's clientele through means of slanderous falsehoods.

Respondent filed a Counter-Claim for fraud, misrepresentation, failure of consideration and slander as a result of PSI's actions described above. Respondent sustained damage, including loss of customers, business and income, injury to his reputation and emotional strain and distress.

Claimant denied each and every allegation contained in the Counter-Claim and alleged:

Respondent seeks to keep the balance of his outstanding loan by making excuses. In reality, Respondent left PSI to work for another brokerage. Respondent was in the habit of switching brokerage firms; since 1981 he has worked for five firms.

PSI did open a Roseville office in January 1994 as promised. The operations manager had nothing to do with Respondent's contract obligation and had been replaced before his resignation. PSI's legal problems were resolved by settlement at the end of 1993. Respondent resigned several months after the settlement had been made public.

### ***Relief Requested***

Claimant requested:

1. Compensatory damages of \$68,351.18;
2. Interest on the above sum, at the contract rate of eight percent annually from March 31, 1994 to the date of payment;
3. Costs, including reasonable attorney's fees.

Respondent requested:

1. Compensatory damages, according proof;
2. Loss of future earnings according to proof;
3. General damages for injury to reputation and emotional distress;
4. Punitive damages;
5. Attorney's fees and costs.

### ***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. Each and every claim of Claimant is dismissed;
2. Each and every claim of Respondent is dismissed;
3. Respondent's claim for punitive damages is dismissed;
4. The parties shall each bear their respective attorney's fees;
5. The parties shall each bear their respective costs.

### ***Other Costs***

None.

### ***Forum Fees***

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc., shall retain the \$600 hearing session deposit previously paid by the claimant. Forum fees are assessed against:

Claimant for \$1,350, minus \$600 paid, leaving a balance due of \$750; and  
Respondent for \$1,350, minus \$600 paid, leaving a balance due of \$750,

calculated as follows: one prehearing session at \$300/prehearing session, plus four hearing sessions at \$600/hearing session, equals \$2,700, assessed equally to the parties .

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


### ***Arbitration Panel***

<b><i>Name</i></b>	<b><i>Public/Industry</i></b>
Allan Currie	Public
Robert Recker	Industry
Anne Hennegar	Public

### ***Concurring Arbitrators' Signatures***

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Allan Currie

\_\_\_\_\_  
Robert Recker

  
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Anne Hennegar

***Date of Decision:*** 2/18/95

**Date Served:** 02/14/95