

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.

95-01898

Name of Respondent

Greg Viola

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**REPRESENTATION**

For Claimant appeared Christopher Freeze, Esq., in-house counsel at Prudential Securities, Inc.

Respondent appeared Pro Se.

**CASE INFORMATION**

The Statement of Claim was filed on April 17, 1995. Claimant's Submission Agreement was signed on March 7, 1995.

Respondent did not file a Statement of Answer and did not file a Submission Agreement.

**HEARING INFORMATION**

Hearing Date/Sessions: April 2, 1996 - Two Sessions

The hearing was held at the Marriott Hotel located in New York City, New York.

**CASE SUMMARY**

Claimant Prudential Securities, Inc. ("PSI") alleged that Respondent Greg Viola failed to comply with the terms of a promissory note signed in connection with PSI's Employment Agreement. specifically, Claimant alleged that Respondent executed a promissory note in the amount of \$57,500.00 on or about May 11, 1992 after receiving a \$57,500.00 loan whereby Respondent was obligated to repay the same plus interest at 8% per annum in three equal installments of \$19,166.60 on the 11th day of May, 1993, 1994 and 1995 or upon the termination for any reason whatsoever of his employment with PSI. Claimant stated that only two payments were made.

Claimant further alleged that on or about January 16, 1995 Respondent voluntarily terminated his employment with PSI and has failed and refused to repay the outstanding balance of \$19,166.60 plus interest accrued.

Claimant further alleged that on or about December 7, 1994 Respondent effected an improper trade in a customer account resulting in a loss to PSI in the amount of \$409.72. In addition, Claimant requested disgorgement of the \$573.84 commission payment Respondent received.

Respondent did not file a response to the claims asserted against him.

#### **OTHER ISSUES CONSIDERED & DECIDED**

The arbitration panel made the following rulings as to Respondent Viola who failed to file an Answer in the arbitration and failed to file a properly executed Submission of the dispute to NASD Arbitration (i.e. Submission Agreement) but did appear at the New York Evidentiary hearing conducted in this matter:

- 1) Pursuant to Section 1 of the NASD Code of Arbitration Procedure ("Code") the panel found subject matter jurisdiction over this entire controversy.
- 2) The panel found that Respondent was a person associated with an NASD member firm namely PSI, at the time this controversy arose. Consequently, the panel found personal jurisdiction over Viola pursuant to Section 8(a) of the Code. Additionally, Respondent executed a Form U-4 requiring him to arbitrate at this forum.
- 3) In view of (2) above, Respondent was required to execute and file with the NASD a Statement of Answer and Submission Agreement pursuant to Section 25(b) of the Code. In this regard the panel found that the NASD properly served the Claimant's claims upon Respondent pursuant to Section 25(a) of the Code.

#### **RELIEF REQUESTED**

Claimant requested that it be granted an arbitration award against Viola for the following:

1. The sum of Nineteen Thousand One Hundred Sixty-Six Dollars and Six Cents (\$19,166.60) based on Viola's default in repayment of the note; and
2. Interest on the above-referenced sum, at the contract rate of 8% per annum from January 16, 1995 to the date of payment; and
3. The sum of Four Hundred Nine dollars and Seventy-Two Cents (\$409.72) based on the loss sustained by PSI from Viola's improper conduct; and
4. Interest thereon from the date PSI incurred the loss; and
5. Disgorgement of the Five Hundred Seventy-Three Dollars and Eighty-Four Cents commission Viola received from the purchase of the premier Municipal Bond Fund Class A in Betty Platt's Account; and
6. Interest thereon from January 15, 1995; and

7. The cost of collection and of this proceeding including reasonable attorneys' fees as Viola agreed to pay under the terms of the Note; and
8. Any other relief as the arbitrators deem fit.

At the hearing, Respondent Viola requested that the claims be dismissed.

### **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 Viola be and hereby is liable and shall pay Prudential Securities, Inc. \$7,980.00 interest included therein, based on Respondent Viola's default in repayment of the promissory note.
2. Each party shall bear their respective costs, including attorneys' fees.
3. All other claims are hereby denied.

### **FORUM FEES**

Pursuant to Section 44c of the Code of Arbitration Procedure, the arbitrators have determined that the following Forum Fees are assessed:

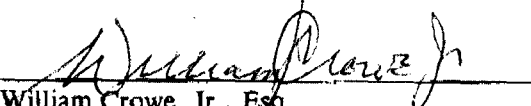
2 sessions X \$600.00	=	\$1,200.00
minus Hearing Session Deposit of		\$ 600.00
 Total Outstanding	=	 \$ 600.00

Claimant is liable and shall pay to the NASD \$600.00 representing one-half of the forum fees assessed. However, Claimant previously submitted a hearing session deposit in the amount of \$600.00. Therefore, the amount due from Claimant is zero.

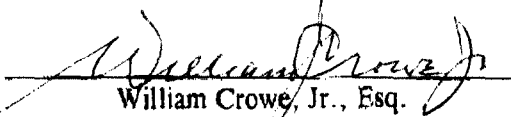
Respondent is liable and shall pay to the NASD \$600.00 representing one-half of the forum fees assessed.

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

**ARBITRATOR'S SIGNATURE**

  
William Crowe, Jr., Esq.  
Industry Chairperson

I, **WILLIAM CROWE, JR., ESQ.**, do hereby affirm pursuant to Article 7507 of the Civil Practice Law & Rules, that this is my decision in the above-captioned matter.

  
William Crowe, Jr., Esq.

Date of Decision: August 13, 1996

**ARBITRATOR'S SIGNATURE**

A handwritten signature in cursive script, appearing to read "Thomas Calaffa", written over a horizontal line.

Thomas Calaffa  
Industry Arbitrator


I, **THOMAS CALAFFA**, do hereby affirm pursuant to Article 7507 of the Civil Practice Law & Rules, that this is my decision in the above-captioned matter.

A handwritten signature in cursive script, appearing to read "Thomas Calaffa", written over a horizontal line. Below the signature, the name "Thomas Calaffa" is printed.


Date of Decision:

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**ARBITRATOR'S SIGNATURE**

  
Thomas Calaffa  
Industry Arbitrator

I, **THOMAS CALAFFA**, do hereby affirm pursuant to Article 7507 of the Civil Practice Law & Rules, that this is my decision in the above-captioned matter.

  
Thomas Calaffa

Date of Decision: August 13, 1996