

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Prudential Securities, Inc.,

Claimant,

v.

Case Number 96-00581

Paul G. Bowden,

Respondent.

REPRESENTATION OF PARTIES

Claimant Prudential Securities, Inc. ("PSI") was represented by Michael A. Kraft, Esq. and Linda A. Gallagher, Esq. of Gornberg Kane & Fischer, Ltd. located in Chicago, Illinois.

Respondent Paul G. Bowden ("Bowden") appeared pro se. Respondent Bowden was previously represented by Kelly D. Simkins, Esq. of Wells Marble & Hurst, PLLC located in Jackson, Mississippi.

CASE INFORMATION

The Statement of Claim was filed on or about February 7, 1996.

Claimant's Submission Agreement was signed on January 24, 1996 by Gabriel Loubier, Vice President of Prudential Securities, Inc.

Respondent Bowden did not file a Statement of Answer or Submission Agreement.

HEARING INFORMATION

The hearing in this matter was held on August 20, 1997 for one (1) session in New Orleans, Louisiana.

CASE SUMMARY

Claimant PSI contended that, when Respondent Bowden became employed by PSI, Bowden was loaned the sum of \$153,803.00 which is evidenced by a Promissory Note (the "Note"). Claimant PSI asserted that, by terms of the Note, Bowden is obligated to repay \$153,803.00 plus interest at 6% per annum through the deduction of \$3,576.82 plus accrued interest from his net commission check after taxes. Furthermore, Claimant PSI maintained that the Note provides that the loan would become immediately due and payable upon the termination of Bowden's employment with PSI. Claimant PSI alleged that, on or about September 27, 1995, Bowden terminated his employment with PSI. Claimant PSI contended that, pursuant to the Note, the balance of \$98,783.30 plus interest, which represents the unpaid portion of the loan, became due and owing on September 27, 1995, the date Bowden resigned from PSI. Claimant asserted that, to date, Respondent Bowden has failed and refused to honor his obligation.

Respondent Bowden did not file a Statement of Answer.

RELIEF REQUESTED

Claimant PSI requested that an arbitration award be granted against Bowden for the following: (1) the sum of \$98,783.30, plus interest based on Bowden's default in repayment of the Note; (2) interest on this sum at 6% from September 27, 1995 to the date of payment; (3) attorneys' fees and costs; and (4) any other relief as the arbitrators deem fit.

At the hearing, Respondent Bowden requested that the Statement of Claim be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Bowden did not file with NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to §10301 of the NASD Code of Arbitration Procedure (the "Code"), and having answered the claim and appeared at the hearing is bound by the determination of the arbitration panel on all issues submitted.

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 original(s) remain on file with NASD Regulation, Inc. Office of Dispute Resolution.

AWARD

After considering the pleading, 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) That Respondent Paul G. Bowden is liable for and shall pay to Claimant Prudential Securities, Inc. the sum of Ninety Six Thousand Five Hundred Seventy Three Dollars and Ninety Eight Cents (\$96,573.98) based on Bowden's default in repayment of the Note;
- (2) That Respondent Paul G. Bowden is liable for and shall pay to Claimant Prudential Securities, Inc. interest in the amount of Ten Thousand Nine Hundred Eighteen Dollars and Fifty Six Cents (\$10,918.56);
- (3) That Respondent Paul G. Bowden is liable for and shall pay to Claimant Prudential Securities, Inc. its attorneys' fees incurred in this matter in the amount of Six Thousand Six Hundred and Sixteen Dollars and No Cents (\$6,616.00);
- (4) That Respondent Paul G. Bowden is liable for and shall pay to Claimant Prudential Securities, Inc. its costs incurred in this matter in the amount of Three Hundred Forty Six Dollars and Forty Seven Cents (\$346.47); and
- (5) That other than forum fees, which are addressed below, all other claims and requests for relief not specifically awarded here are, and each of them, hereby dismissed in their entirety with prejudice.

FORUM FEES

Forum fees are calculated at the rate of \$600 per hearing session and \$300 for each hearing session before a single arbitrator. There was one (1) hearing session x \$600 = \$600 in forum fees. Pursuant to §10205(b) of the Code, a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §10205(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$500 and shall refund the hearing session deposit in the amount of \$600 previously deposited with NASD Regulation, Inc. Office of Dispute Resolution by PSI. Pursuant to §10333 of the Code, NASD Regulation, Inc. Office

of Dispute Resolution shall retain the non-refundable member surcharge in the amount of \$300 previously deposited by PSI.

Pursuant to §10205(c) of the Code, Respondent Bowden is liable for and shall pay all forum fees incurred in this matter which is the amount of \$600. Pursuant to §10205(c) of the Code, Respondent Bowden is liable for and shall pay postponement fees incurred in this matter in the amount of \$600.

Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.

Concurring Arbitrators' Signatures

/s/ Ernest Lino Jordan, Jr.
Ernest Lino Jordan, Jr.
Chairperson
Industry Arbitrator

August 26, 1997
Dated:

/s/ Robert J. Eitel
Robert J. Eitel
Panelist
Industry Arbitrator

August 21, 1997
Dated:

/s/ Timothy B. Alack
Timothy B. Alack
Panelist
Industry Arbitrator

August 21, 1997
Dated:

For NASD Regulation use only:
Date award served on the parties: August 26, 1997