

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Prudential Securities, Inc.

and

96-00979

Name of Respondent

Gregory L. White

REPRESENTATION OF PARTIES

Prudential Securities, Inc. ("**Claimant**") was represented by Ronald P. Kane, Esq., Gornberg Kane & Fischer, Ltd., 208 South LaSalle Street, Suite 1800, Chicago, Illinois 60604.

Gregory L. White ("**Respondent**") was represented by Bruce A. Hubbard, Esq., Hubbard & Johnson, P.C., 3300 East 1st Avenue, Suite 560, Denver, Colorado 80206.

CASE INFORMATION

The Statement of Claim was filed on or about March 4, 1996. Submission Agreement of Claimant was signed on February 29, 1996.

Statement of Answer was filed by Respondent on or about May 6, 1996. Submission Agreement of Respondent was signed on, April 29, 1996.

HEARING INFORMATION

A pre-hearing conference was held on January 21, 1997. No hearing was held. In a letter dated January 28, 1996, Respondent's counsel advised that White: a) will not pursue and withdraws his Setoff and Counterclaim, filed May 3, 1996; b) White will not oppose the entry of an award as sought by Prudential's Statement of Claim; and c) White will not, consequently, participate in any hearing.

CASE SUMMARY

Claimant alleged that Respondent entered into a Promissory Note on September 9, 1994, (the "Note"), which by its terms, Respondent agreed to repay the sum of \$200,000.00 in fifty-five equal monthly installment payments of \$3,636.36 beginning with February, 1995 and ending with September, 1999, plus interest at the rate of 6% per annum. Claimant alleged that the Note provided for the payment of the entire amount due in the event of the termination, for any reason, of employment during the term of the Note. In addition, Claimant alleged that Respondent was not entitled to any unpaid transitional compensation if Respondent resigned or was terminated for cause. Respondent voluntarily resigned from Prudential on January 5, 1996, and there was a remaining balance due on the Note in the amount of \$160,000.00 plus interest. On or about January 26, 1996, Claimant tendered a demand to Respondent for the balance due under the Note plus interest. Claimant alleges that to date Respondent has failed and refused to honor his obligation to Prudential Securities Incorporated under the Note.

Respondent filed an Answer and Counterclaim on or about May 3, 1996. In his Answer, Respondent alleged that Claimant fraudulently induced him to enter the Employment Agreement by making promises to Respondent that Claimant would support Respondent's work in advising his existing clients, among other things by giving Respondent access to Prudential's research and due diligence. Respondent also alleged that Claimant failed to live up to its promises and that as a result, Claimant breached the Employment Agreement with Respondent. Respondent further alleged that he has been damaged in an amount which is not less than \$250,000.00.

Claimant filed a Response to the Answer and Counterclaim of Respondent on June 14, 1996 denying any allegations of wrongdoing.

RELIEF REQUESTED

Based on its Statement of Claim and the representations of Respondent's counsel, Claimant requests that an award be entered against Gregory L. White for a total of \$183,237.88 consisting of the following:

- The principal balance due and owing under the Note in the amount of \$160,000.00;
- Interest on the balance due and owing under the Note from 01/02/1996 to 02/26/1996, at the contract rate of 6% per annum (\$26.30 per day) in the amount of \$1,472.80;
- Interest on the balance due and owing under the Note from 02/26/1996 to 02/04/1997, at the contract rate of 6% per annum (\$26.30 per day) in the amount of \$9,047.20;
- Interest on the balance due and owing under the Note at the contract rate of 6% (\$26.30 per day) from 02/04/1997 to date of payment, and;
- Attorneys fees in the amount of \$9,217.00 and costs in the amount of \$3,500.88 as agreed to under the terms of the Note.

OTHER ISSUES CONSIDERED & DECIDED

Pursuant to a letter of January 28, 1997, Respondent's counsel advised Claimant's counsel and the NASD that Respondent would not pursue, withdrew his Setoff and Counterclaim and did not oppose the entry of an award as sought by Prudential's Statement of Claim.

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 the NASD.

AWARD

After considering the pleadings, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Gregory L. White shall be and hereby is liable for and shall pay to the Claimant Prudential Securities, Inc. the sum of \$183,237.88 (one hundred eighty three thousand two hundred thirty seven dollars and eighty eight cents).
2. Interest at the rate of 6% per annum is awarded on the above stated sum from and inclusive of February 4, 1997 to and inclusive of the date this award is paid in full.

FORUM FEES

Pursuant to §10332(c) of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$500, the surcharge(s) in the amount of \$350 imposed pursuant to §45 and shall **retain** the hearing session deposit in the amount of \$750 previously deposited with the NASD by the Claimant. The NASD Regulation, Inc. Office of Dispute Resolution shall also **retain** the non-refundable filing fee in the amount of \$500 and shall **retain** the hearing session deposit in the amount of \$600 previously deposited by Respondent Counterclaimant Gregory L. White. **Fees are payable to the National Association of Securities Dealers, Inc.**

Dated:

/s/ James P. Beck, Esq.

February 4, 1997

James P. Beck, Esq.

Industry Arbitrator, Presiding Chair

/s/ Jeffrey A. Schaefer

February 4, 1997

Jeffrey A. Schaefer

Industry Arbitrator

/s/ James M. Corboy

February 4, 1997

James M. Corboy

Industry Arbitrator