

**AWARD**

**NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION**

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**Prudential Securities, Inc.,**

**Claimant.**

**v.**

**Case Number 96-03910**

**William J. Odom,**

**Respondent.**

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**REPRESENTATION OF PARTIES**

**Claimant, Prudential Securities, Inc. was represented by Michael A. Kraft, Esq. of Gombert Kane & Fischer, Ltd. located in Chicago, Illinois.**

**Respondent, William J. Odom was represented pro se.**

**CASE INFORMATION**

**The Statement of Claim of Prudential Securities, Inc. was filed on or about August 30, 1996.**

**The Claimant, Prudential Securities, Inc.'s Submission Agreement signed on August, 1996 by Gabriel Loubier, Esq., First Vice President and Deputy Regional Counsel.**

**The Statement of Answer of William J. Odom was filed on or about November 7, 1996.**

**Respondent, William J. Odom signed a Submission Agreement on September 17, 1997 yet his signature was not notarized.**

### **HEARING INFORMATION**

The hearing was held on September 17, 1997 for one (1) session in Houston, Texas.

### **CASE SUMMARY**

Prudential Securities, Inc. ("Claimant") alleged that William J. Odom ("Respondent"), signed into a Promissory Note (the "Note") on September 30, 1994, which by its terms, Respondent agreed to repay the sum of \$113,121.00 in forty-three equal monthly installment payments of \$2,630.72 beginning February, 1995 and ending August, 1998 plus interest at the rate of 6% per annum. Claimant alleged that the Note provided for the repayment of the entire amount in the event of the termination, for any reason, of employment with Claimant during the term of the Note. Respondent voluntarily resigned from Prudential on or about January 31, 1996. At the time of his resignation there was a remaining balance due on the Note in the amount of \$81,552.35, arrears in the amount of \$2,133.56 plus accrued interest. On or about March 5, 1996, Claimant tendered a demand to Respondent for the balance due under the Note plus interest. Claimant alleged that Respondent failed and refused to honor his obligation to Prudential Securities, Inc. under the Note.

In his Answer, Respondent denied all allegations made by the Claimant. Respondent asserted various affirmative defenses including, but not limited to, failure to state a cause of action, fraud in the inducement, misrepresentation, failure to mitigate and the Agreement and Note were void as against public policy. In his Counterclaim, Respondent alleged that Prudential induced him into entering into employment under false pretenses by promising that he could enter into discretionary agreements with his clients and subsequently denying Respondent this discretionary power. Respondent also alleged that Prudential breached its agreements with him. Respondent further alleged that Prudential failed to provide support and proper working conditions for him and failed to provide services to Respondent's clients during and after the termination of Respondent's employment with Prudential. Respondent also alleged that agents of Prudential made false and defamatory statements concerning Respondent to clients of Respondent and others. Respondent further alleged that he was wrongfully discharged by Prudential and without cause.

In its Reply to Respondent's Answer and Counterclaim, Claimant denied each and every allegation of wrongdoing set forth by Respondent.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested an award against the Respondent as follows:

- The principal balance due and owing under the Note in the amount of \$81,552.35;
- Interest during the term of the Note at the contract rate of 6% in the amount of \$26.82;
- Interest on the balance due and owing under the Note from 01/31/1996 to 09/17/1997, at the contract rate of 6% per annum (\$13.41 per day) in the amount of \$7,978.95;
- Interest on the balance due and owing under the Note at the contract rate of 6% (\$13.41 per day) from 09/17/1997 to date of payment;
- Arrears in the amount of \$2,133.56;
- Attorneys fees and costs as agreed to under the terms of the Note; and

- Any other relief as the Arbitrators deem just.

In the Counterclaim, Respondent requested that Claimant be ordered to pay Respondent \$100,000.00, plus costs, interest and attorneys' fees.

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

Respondent, William J. Odom did not file a properly executed Submission Agreement to arbitrate before the hearing yet under oath given by the arbitrators, agreed orally to submit to arbitration and to the jurisdiction of the NASD Regulation, Inc. The Respondent signed a Submission Agreement on September 17, 1997; however, his signature was not notarized. Having answered, appeared and testified at the hearing, the Respondent is required to submit to arbitration in accordance with § 10201 of the Code of Arbitration Procedure.

The parties agreed at the hearing to receive conformed copies of the award while the original(s) remains on file with the NASD Regulation, Inc. Office of Dispute Resolution.

#### **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, William J. Odom is liable for and shall pay to Claimant, Prudential Securities, Inc. the sum of \$101,866.36 in damages;
2. The Counterclaim submitted by Respondent, William J. Odom is denied in its entirety and dismissed with prejudice;
3. Other than forum fees which are addressed below, all other claims and requests for relief not specifically awarded are hereby denied in their entirety and dismissed with prejudice.

#### **FORUM FEES**

Forum fees are calculated at the rate of \$600.00 per hearing session. There was one (1) hearing session x \$600.00 = \$600.00 in forum fees. Pursuant to § 10205(b) of the Code of Arbitration Procedure (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, the NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee of \$500.00, shall retain the \$300.00 member surcharge and shall retain as forum fees the hearing session deposit in the amount of \$600.00 previously deposited by Prudential Securities, Inc.

Pursuant to §10205(c) of the Code, Respondent, William J. Odom is liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the sum of \$500.00 for the non-refundable filing fee for his Counterclaim. In addition, Respondent, William J. Odom is liable for and shall pay to Prudential Securities, Inc. the sum of \$600.00 as reimbursement of the hearing session deposit.

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

Arbitrators' signatures:

Dated:

Bertrand C. Moser, Esquire  
Bertrand C. Moser, Esquire  
Chairperson, Public Arbitrator

September 25, 1997

George A. Sellnau, Esquire  
George A. Sellnau, Esquire  
Panelist, Public Arbitrator

September 24, 1997

Thomas A. Thornhill, Jr.  
Thomas A. Thornhill, Jr.  
Panelist, Industry Arbitrator

September 24, 1997

For NASD use only:

Date served: September 29, 1997