

AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant(s)

Prudential Securities Inc.

v.

Arbitration No.

96-04158

Name of Respondent(s)

Gary E. Larimer

REPRESENTATION

For Claimant: William M. Cassarini, Esq., Prudential Securities Inc., New York, New York

For Respondent: Adam Levine, Esq., Law Office of Daniel Marks, Las Vegas, Nevada

CASE INFORMATION

Statement of Claim filed: September 18, 1996

Claimant's Submission Agreement signed: August 22, 1996

Statement of Answer filed: November 27, 1996

Respondent's Submission Agreement signed: October 1, 1996

CASE SUMMARY

Claimant alleged Respondent failed and refused to pay sums due pursuant to the terms of the Employment Agreement and promissory note dated April 13, 1995, upon termination of Respondent's employment with Claimant.

Respondent admitted he executed the Employment Agreement and promissory note, but denied liability because he was constructively discharged without just cause. Respondent

asserted that the sums were due only if he was terminated for just cause.

RELIEF REQUESTED

Claimant requested damages of \$96,562.23, plus interest, costs of collection and attorneys' fees as agreed under the terms of the promissory note.

Respondent requested dismissal of all claims.

OTHER ISSUES

None.

AWARD

The parties have agreed to the entry of a stipulated award, the terms of which are contained in the attached Settlement Agreement and General Release.

FORUM FEES

Pursuant to Section 10205 of the Code of Arbitration Procedure, the NASD shall retain the \$500 non-refundable filing fee paid by Claimant, but shall refund Claimant's \$600 hearing session deposit.

Blake Weston, Esq.

Andrew Ferguson

 9-13-97
David M. Seidner

Date Served: September 29, 1997

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SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release ("Agreement") is entered into by **Prudential Securities Incorporated** ("Prudential") and **Gary E. Larimer** ("Larimer").

Recitals

A. Dispute arose between Prudential and Larimer regarding Larimer's employment with Prudential and obligations associated with that employment. On or about September 16, 1996, Prudential filed a Statement of Claim before the National Association of Securities Dealers, Inc., NASD No. 96-04158, (In the Matter of Arbitration Between Prudential Securities Incorporated and Gary E. Larimer) (the "Action"). The Action sought repayment of certain contractual obligations allegedly owed by Larimer to Prudential. On or about November 26, 1996, Larimer answered the Statement of Claim and asserted various affirmative defenses to the Action by Prudential, which relieved Mr. Larimer of any and all obligation to Prudential, contractual or otherwise. Prudential's Statement of Claim and Larimer's Statement of Answer, as described above, shall be referred to as the "Action".

B. Prudential and Larimer now desire to settle, compromise and resolve all differences, disagreements and disputes which exist or may exist between them arising out of the transactions and matters set forth in the Statement of Claim and Statement of Answer filed by the respective parties in the Action.

Accordingly, in consideration of the foregoing recitals and promises, and the conditions and covenants hereinafter set forth, the parties agree as follows:

AGREEMENT

1. Larimer, in full and complete settlement of the Action, agrees to pay to Prudential the sum of **Sixty Thousand Dollars (\$60,000)** to be paid as follows:

a. The sum of **Thirty Thousand Dollars (\$30,000)** to be paid by check on or before September 1, 1997. That check shall be in the form of either a cashier's check or certified check and shall be made payable to Prudential Securities Incorporated. The check shall be directed to Prudential's counsel, William Cassarini, Esq., located at One Seaport Plaza, 30th Floor, New York, New York 10292.

b. The sum of **Thirty Thousand Dollars (\$30,000)** to be paid pursuant the terms of the Promissory Note in favor of Prudential executed and delivered to Prudential's counsel with this Settlement Agreement and General Release (Promissory Note attached hereto as Exhibit "A"). The Promissory Note shall require Larimer to make consecutive monthly payments in the amount of **Five Hundred Dollars (\$500)** to Prudential beginning on January 15, 1998. The payments made by Larimer under the Promissory Note shall be made to the attention of William Cassarini, Esq. at Prudential Securities office located at One Seaport Plaza, 30th Floor, New York, New York 10292.

The monthly payments are to be received by Prudential on or before the fifteenth day of each month. In the event the fifteenth day of the month falls on a weekend or holiday in which there is no mail service, the payment must be received on the next regular

business day. If Prudential does not receive any payment in a timely fashion, Prudential will give Larimer written notice of that fact. Larimer will have ten days from receipt of written notice in which to cure his default. If the ten-day grace period expires on a weekend or a holiday in which there is no mail service, the payment must be received on the next regular business day. All payments must be in the possession of Prudential, as noted above, and mailing shall not constitute receipt.

If Larimer fails to make any required payment under the terms and conditions of this Agreement and the Promissory Note, the entire outstanding obligation, including principal any outstanding interest, shall be immediately due and payable. There shall be no prepayment penalty under the terms of the Promissory Note. In the event there is a default under terms of the Promissory Note, interest shall commence to accrue as of the rate of the default at the annual rate of six percent (6%).

2. The parties fully and forever waive, release, relinquish and discharge each other, including, but not limited to, their respective officers, directors, employees, shareholders, agents, parent corporations, subsidiary corporations, successors, assigns, heirs, personal administrators, insurers and attorneys from any and all claims whether alleged or not alleged in the Action. Prudential shall dismiss with prejudice the claim filed in the Action. Upon completion of the payments under the \$30,000.00 Promissory Note, the previous obligation of Larimer will be deemed satisfied.

3. This Agreement shall apply to all unknown or unanticipated claims and damages arising from the acts and occurrences which are subject of the Action and any and all claims whether alleged or not alleged in the Action and the parties, and their successors and assigns, expressly waive and relinquish any and all rights and benefits which they may have hereunder, or which may conferred upon them.

4. Notwithstanding the foregoing, this Release does not apply to (a) customer complaints; (b) compliance or regulatory matters; (c) claims initiated by any third party; and (d) to any other matters between Prudential, on the one hand, and Larimer, on the other hand, not released herein (hereinafter collectively referred to as "the Exempted Claims").

5. The agreement represents a settlement of all disputed and contested claims and nothing contained herein shall be construed as an admission of liability by any party hereto or any liability of any kind to any other party.

6. The parties agree that any dispute regarding either the terms and conditions of this Agreement or the Promissory Note, as well as payment not made by Larimer under the Promissory Note, shall be resolved in arbitration before either the National Association of Securities Dealers, Inc., or the New York Stock Exchange, as the complaining party may elect. The parties further agree and acknowledge that the prevailing party in any such arbitration shall be entitled to an award for all reasonable costs and attorney's fees incurred in the arbitration.

7. This Agreement is the entire, complete, and only understanding and agreement pertaining to and concerning the subject matter expressed herein, and there are not independent, collateral, different, additional or other understandings or agreements oral or written, or obligations to be performed or payment to be made other than set forth herein. No promise, inducement or consideration other than the provision and obligations specifically set forth herein as been made or agreed upon.

8. The parties represent to each other that each has not assigned any of its causes of action or claims which are being released hereby and that each is fully authorized to release the causes of actions and claims described above.


9. Under this Agreement any and all duties, including matters of construction, validity and performance shall be interpreted, enforced and governed by the laws of the State of New York. In the event that any provision of this Agreement is held to unenforceable or invalid, the remaining provisions will be given full effect. The document is the result of a mutual negotiation and drafting of the parties.

10. The provisions of this Agreement are severable and the invalidity of any provision herein shall not affect the validity of any other provision.

11. This Agreement may be executed in any number of identical counterparts, each of which shall be deemed an original for the purposes of enforcing the Agreement, and all of which shall constitute one and the same Agreement.

12. This Agreement may not be modified except by written modification executed by both parties.


Dated: July 9, 1997


Prudential Securities Incorporated
By: William M. Cassarini
Vice President
Assistant General Counsel

Dated: July 6, 1997
Aug


Gary E. Larimer

Dated: July 5th 1997
As


Adam Levine
Daniel Marks - Attorneys at Law
Attorney for Gary E. Larimer