

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Margaret Yeo

NASD Arbitration
No. 92-02621

Name of Respondent(s)

PaineWebber Incorporated
John A. Koch

REPRESENTATION

For Claimant: Timothy L. Taggart, Esq., Bloomington, California

For Respondents: Judy Louie, Esq. and Scott M. Ratchick, Esq.,
PaineWebber, Incorporated, Los Angeles, California

CASE INFORMATION

Statement of Claim filed: July 16, 1992
Amended Statement of Claim filed: November 24, 1992
Claimant's Submission Agreement signed: November 23, 1992

Joint Statement of Answer filed by Respondents: January 26, 1993
Respondents' Submission Agreements signed as follows:
PaineWebber Incorporated: January 25, 1993
John A. Koch: January 7, 1993

HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s):
July 9, 1993 (one session)

Hearing Date(s)/Session(s): March 15, 1994 (two sessions)
March 16, 1994 (three sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant submitted the following causes of action with respect to her employment by PaineWebber Incorporated (PaineWebber): 1) discrimination on the basis of sex, age and national origin (as to

all Respondents); 2) breach of the implied-in-fact contract of employment (only as to PaineWebber); 3) intentional infliction of emotional distress (as to all Respondents); and 4) negligent infliction of emotional distress (as to all Respondents).

Respondents denied generally and specifically, each and every allegation contained in Claimant's Claim and alleged that Claimant filed her claims against Respondents for various violations of anti-discrimination statutes, breach of the implied-in-fact contract of employment, and intentional and negligent infliction of emotional distress in retaliation to a Claim for a draw deficit filed by PaineWebber against Claimant Margaret Yeo. Respondents further alleged that Claimant did not perform as was expected from a broker of her years in the industry and asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested judgment against Respondents as follows:

As to the first cause of action - 1) for general damages in a sum according to proof; 2) for special damages in a sum according to proof; 3) for attorney's fees in a sum according to proof; and 4) for punitive damages in a sum according to proof.

As to the second cause of action - 1) for general damages in a sum according to proof.

As to the third cause of action - 1) for general damages in a sum according to proof; 2) for special damages in a sum according to proof; and 3) for punitive damages in a sum according to proof.

As to the fourth cause of action - 1) for general damages in a sum according to proof; and 2) for special damages in a sum according to proof.

As to all causes of action - 1) for cost of suit; 2) for such other and further relief as the arbitration panel may deem just and proper.

Respondents requested dismissal of Claimant's claims with prejudice, with costs to be taxed against Claimant, including reasonable attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant's claims were originally filed in the Superior Court of the State of California, County of Santa Barbara, Case Number 269228. The court proceedings were stayed pending a final determination in arbitration.

The panel reviewed and considered the parties' positions with

respect to Claimant's motion to reopen the hearing in this matter to include additional evidence. The panel denied the motion.

The parties have agreed that the Award in this matter may be executed in either 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 originals remain on file with the National Association of Securities Dealers, Inc. (NASD).

AWARD

After considering the pleadings, the testimony, the evidence presented at the hearing and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. As to the first cause of action (Discrimination): No liability. The arbitration panel finds that Respondents did not discriminate against Ms. Yeo or otherwise create a discriminatory work environment as to Ms. Yeo.

2. As to the second cause of action (Breach of the Implied-In-Fact Contract): No liability. The arbitration panel finds that Ms. Yeo did not, and could not, provide sufficient proof of the elements of this claim.

3. As to the third cause of action (Intentional Infliction of Emotional Distress): No liability. The arbitration panel finds that the requisite element of intent was not established by the evidence by either a knowing or recklessness standard.

4. As to the fourth cause of action (Negligent Infliction of Emotional Distress): The arbitration panel finds that following Ms. Yeo's termination from PaineWebber in January 1991, Mr. Koch, in response to an oral inquiry made by Ms. Yeo's potential new employer, Dean Witter Reynolds, Inc. (Dean Witter), stated that Ms. Yeo had a customer complaint pending against her. The arbitration panel finds that Mr. Koch's response was inherently misleading in that PaineWebber had admittedly taken the previous position that the subject customer complaint was meritless and, had considered the matter closed. Mr. Koch's statement gave the false impression that Ms. Yeo had a customer complaint problem, when in fact, she did not. PaineWebber had already concluded by letter that the subject complaint was without justification.

The arbitration panel finds from the preponderance of the evidence that Mr. Koch's statement to the Dean Witter Branch Manager was the proximate cause of Ms. Yeo's summary dismissal from Dean Witter, after being informed that she had a job there as a broker. The arbitration panel further finds that as a result of the above,

Ms. Yeo lost certain income, suffered undue embarrassment and humiliation from being let go by Dean Witter.

Consequently, the arbitration panel finds that Respondents John A. Koch and PaineWebber Incorporated are jointly and severally liable for and shall pay to Claimant Margaret Yeo the sum of \$49,400.00. No exemplary or punitive damages are awarded.

5. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

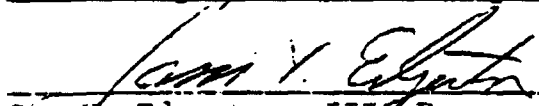
Pursuant to Section 44(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall refund the \$600.00 hearing session deposit previously deposited by the Claimant. Forum fees are assessed against: Respondents, jointly and severally, in the amount of \$3,300.00, calculated as follows: One pre-hearing session times \$300.00/session plus five hearing sessions times \$600.00/session.

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

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Sam Y. Edgerton, III, Esq.	Industry Arbitrator
Harriett A. Kottick, CFP	Industry Arbitrator
Anthony W. Kashouty	Industry Arbitrator

Concurring Arbitrators' Signatures



Sam Y. Edgerton, III, Esq.

Harriett A. Kottick, CFP

Anthony W. Kashouty

Date of Decision: _____

Served 5/19/94