

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Sandra Kaye Gardner

93-00404

Name of Respondents

Charles P. Nelson
Craig Wolpert
Benefits Corporation Equities, Inc.
Benefits Communications Corporation
Great West Life Assurance

REPRESENTATION

Claimant Sandra Kaye Gardner ("Claimant") was represented by Richard A. Salzman, Esq. of Kator, Scott & Heller.

Respondents Charles P. Nelson ("Nelson"), Craig Wolpert ("Wolpert"), Benefits Corporation Equities, Inc. ("Benefits Corp."), Benefits Communications Corporation ("Benefits Communications") and Great West Life Assurance ("Great West") herein collectively referred to as "Respondents" were represented by John M. Husband, Esq. of Holland & Hart.

CASE INFORMATION

Statement of Claim filed on: February 1, 1993

Claimant's Submission Agreement signed on: January 7, 1993

Joint Statement of Answer filed by Respondents Great West Life Assurance, Co., Benefits Communication Corp., Benefitscorp Equities, Inc., Charles P. Nelson and Craig Wolpert on: April 23, 1993.

Nelson's Submission Agreement signed on: May 26, 1993.

Great West's Submission Agreement signed on: May 3, 1993

Benefits Communication's Submission Agreement signed on: April 19, 1993

BenefitsCorp Equities, Inc.'s Submission Agreement signed on: April 19, 1993

Wolpert's Submission Agreement signed on: April 27, 1993

HEARING INFORMATION

Hearing Dates/Sessions:	January 27, 1994,	two sessions
	January 28, 1994,	two sessions
	January 31, 1994,	two sessions
	February 1, 1994,	two sessions
	February 17, 1994,	one session

Hearing Location: Washington, D.C.

CASE SUMMARY

Claimant alleged that on or about November 1, 1989, Claimant's supervisor, Wolpert began a continuous campaign of harassment and discrimination in order to force Claimant's resignation. Claimant alleged that these acts included, among other things, Wolpert informing several co-workers that he wanted to fire Claimant and repeatedly subjected Claimant and other female employees to demeaning and sexist remarks which created an abusive and intolerable working environment. Claimant alleged that Wolpert assigned male employees, less-qualified than Claimant, to work on Claimant's accounts which resulted in significant reduction in the amount of Claimant's commissions. Claimant alleged that Wolpert refused to provide Claimant with all of the training that Claimant had requested while male employees were liberally granted such training. Claimant alleged that shortly after she filed a charge of sex discrimination against Wolpert with Respondents Great-West Life Assurance Co.'s Employee Relations Department, Wolpert conducted a campaign of retaliation designed to force Claimant's resignation from employment. Claimant alleged that as part of the retaliation program, Wolpert drastically cut back the assignments given to Claimant and awarded accounts that Claimant would have received to less qualified male employees. Claimant alleged that she was the only Employee-Sponsored Specialist ("ESS") ordered to spend more time in the office rather than in the field and was given clerical duties to perform including submitting weekly itineraries to Wolpert. Claimant alleged that on or about October 16, 1990, Wolpert, unjustly place Claimant on probation and threatened to terminate her employment. Claimant alleged that she suffered anxiety and stress and required to seek medical treatment for the injuries she sustained. Claimant alleged that as a result of the alleged discriminatory, abusive and intolerable working environment imposed on Claimant, that on February 4, 1991, Claimant resigned her position as ESS.

Respondents maintained that Claimant's interpersonal conflict with Wolpert was not the result of sex discrimination but rather from Claimant's inadequate job performance coupled with her inability to respond to critical evaluation of that performance. Respondents maintained that based on a psychiatric diagnosis that Claimant suffers from severe personality disorder. Respondents further maintained that Claimant's personality disorder was largely responsible for the deterioration of her relationship with Wolpert. Respondents maintained that assigning a male employee to assist Gardner on one of the accounts was not motivated by sex discrimination but rather by Wolpert's concern with adequately staffing the 401(k) enrollments. Respondents maintained that Claimant was provided with adequate training and that Wolpert provided Claimant with suggestions on how to improve her performance including a check list for her presentations. Respondents maintained that Claimant was removed from the Anne Arundel Medical Center ("AAMC") account because of her late arrival on two consecutive days and complaints from AAMC Group Representative. Respondents maintained that it was Claimant who terminated her employment relationship and had Claimant not resigned, Wolpert would not be Claimant's supervisor because of the Corporate reorganization of Benefits Communication Corp. Respondents further maintained that Claimant's claims are barred in part by the applicable statutes of limitations under the D.C. Human Rights Act and Claimant's claim are barred in part by her Workers Compensation claim and settlement.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$300,000, plus interest thereon; Claimant requested punitive damages in the amount of \$600,000, plus costs and attorney's fees.

Respondents requested that Claimant's claim be dismissed in its entirety and that all costs of these proceedings be assessed against Claimant.

OTHER ISSUES CONSIDERED & DECIDED

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 originals remain on file with the NASD.

That the Respondents Motion to Dismiss Great West and Nelson was denied by the Panel.

Respondents made a Motion that Claimant's claim for emotional distress is barred

by the Workman's Compensation Claim previously filed by Claimant. This Motion is moot based on the Panel's decision below.

AWARD

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

1. That Respondents are jointly and severally liable to the Claimant for compensatory damages and shall pay to the Claimant the sum of \$15,000; exclusive of interest.
2. That Claimant's claim for punitive damages and/or damages for emotional distress are denied in their entirety.
3. That the parties shall bear their own costs, expenses and attorneys' fees except as specifically delineated herein.

FORUM FEES


Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed.

9 sessions X \$1000 = \$9,000

Forum fees Assessed Against: Claimant is assessed forum fees in the amount of \$3,000. Respondents are jointly and severally assessed forum fees in the amount of \$6,000.

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

Concurring Arbitrator's Signature
Name


Robert S. Plotkin


Public Industry

NASD Date of Decision: April 11, 1994

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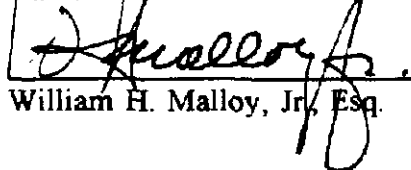
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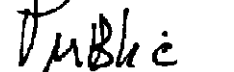
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Concurring Arbitrator's Signature

Name


William H. Malloy, Jr., Esq.

Public/Industry



NASD Date of Decision: April 11, 1994 Date of Decision: _____

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Name

Michael P. Gwinn

Public/Industry

Industry

NASD Date of Decision: April 11, 1994