

10/94

9410082

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
In the matter of the Arbitration Between

Name of Claimant

Howard Saari

v.

NASD Arbitration
No. 93-01336

Name of Respondent

Smith Barney, Harris Upham & Company, Inc.

REPRESENTATION

For Claimant: Mark T. Quigley, Esq., Greene, Broillett, Taylor & Wheeler,
Santa Monica, California

For Respondent: David Levy, Esq., Smith Barney, Inc.,
New York, New York

CASE INFORMATION

Statement of Claim filed: April 1, 1993

Claimant's Submission Agreement signed: March 25, 1993

Statement of Answer filed by Respondent: June 23, 1993

Respondent's Submission Agreement signed: June 21, 1993

HEARING INFORMATION

A pre-hearing telephone conference lasting one (1) session was held on February 22, 1994. An evidentiary hearing lasting four (4) sessions was held on October 12, and 13, 1994, in Los Angeles, California.

9410082

CASE SUMMARY

Claimant alleged wrongful termination, slander, breach of the implied covenant of good faith and fair dealing, intentional and negligent infliction of emotional distress arising from the circumstances surrounding his termination of employment with Respondent, specifically his refusal to take a polygraph examination.

Respondent denied the allegations of the claim, and asserted that Claimant was terminated because of poor performance.

RELIEF REQUESTED

Claimant requested damages, including compensatory and punitive damages, of \$1,550,000, plus interest, costs and attorney's fees.

Respondents requested dismissal of all claims and an award of costs of arbitration.

OTHER ISSUES CONSIDERED AND DECIDED

This claim was originally filed in United States District Court, Central District of California, Case No. CV-89-1870 MRP (Bx), on March 30, 1989. This Court denied Respondent's motion to compel arbitration but on June 29, 1992, the Ninth Circuit Court of Appeals reversed the District Court's order and held that all claims were subject to arbitration. The U.S. Supreme Court denied Claimant's writ of certiorari on November 16, 1992, and on December 4, 1992, Judge Mariana R. Pfaelzer of the U.S. District Court ordered the parties to arbitration.

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 remains on file with the NASD.

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 is liable for and shall pay to Claimant the sum of \$50,000 exactly in satisfaction of all claims.
2. The claim for punitive damages is dismissed.

9410082

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

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$500 non-refundable filing fee paid by claimant, but shall refund claimant's \$1000 hearing session deposit.

Respondent is assessed forum fees of \$4000 for 4 sessions @ \$1000/session.

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

ARBITRATORS

Name Public / Industry

Evelyn Ann Kramer

Public Arbitrator

John E. Cummings

Public Arbitrator

Robert E. Paset

Industry Arbitrator

Concurring Arbitrators' Signatures



Evelyn Ann Kramer

John E. Cummings

Robert E. Paset

Date Served: 10-31-94

9410082

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

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$500 non-refundable filing fee paid by claimant, but shall refund claimant's \$1000 hearing session deposit.

Respondent is assessed forum fees of \$4000 for 4 sessions @ \$1000/session.

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

ARBITRATORS

Name Public / Industry

Evelyn Ann Kramer

Public Arbitrator

John E. Cummings

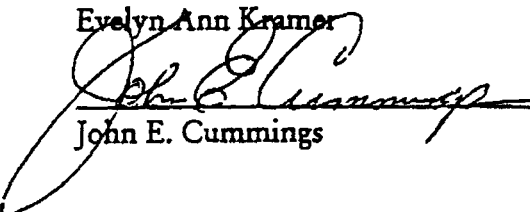
Public Arbitrator

Robert E. Paset

Industry Arbitrator

Concurring Arbitrators' Signatures

Evelyn Ann Kramer



John E. Cummings

Robert E. Paset

Date Served: 10-31-94

9410082

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

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$500 non-refundable filing fee paid by claimant, but shall refund claimant's \$1000 hearing session deposit.

Respondent is assessed forum fees of \$4000 for 4 sessions @ \$1000/session.

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

ARBITRATORS

Name Public / Industry

Evelyn Ann Kramer

Public Arbitrator

John E. Cummings

Public Arbitrator

Robert E. Paset

Industry Arbitrator

Concurring Arbitrators' Signatures

Evelyn Ann Kramer

John E. Cummings

Robert E. Paset

Date Served: 10-31-94