

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Regina M. DelSignore

93-04730

Name of Respondent

Smith Barney Shearson, Inc.

REPRESENTATION OF PARTIES

Claimant Regina M. DelSignore ("DelSignore") was represented at the hearing by James T. Haynes, Esq. of Stapleton Nolan & McCall P.A., St. Paul, Minnesota.

Respondent Smith Barney Shearson, Inc. ("Smith Barney") was represented at the hearing by Scott E. Kresch, Esq. of Smith Barney Shearson, Inc., New York, New York.

CASE INFORMATION

The Statement of Claim was filed with the NASD by Claimant DelSignore on November 12, 1993. The Uniform Submission Agreement signed by DelSignore on November 9, 1993.

The Statement of Answer was filed by Respondent Smith Barney on February 15, 1994. The Uniform Submission Agreement was signed by Scott E. Kresch, Esq. First Vice President on behalf of Smith Barney on February 15, 1994.

HEARING INFORMATION

The hearing was held on August 9, 1994 in Minneapolis, Minnesota for a total of two (2) hearing sessions.

CASE SUMMARY

Claimant DelSignore alleged in her Statement of Claim that she was required to take medical leave for three medical operations and the accompanying complications and recovery periods, and alleged that she had indicated to her branch manager, Scott Llewellyn ("Llewellyn") that she planned to return to work on November 16, 1992. DelSignore further stated that on November 4, 1992, Llewellyn asked her to sign a document in which she accepted the terms and conditions of Smith Barney's medical leave policy, and which indicated that her job guarantee would run out on November 9, 1992. DelSignore further alleged that Mr. Llewellyn took advantage of the confidence that she had in him, downplayed the significance of the November 9th date, did not impress upon her that she may be terminated for failure to return to work by that date, and

thereby deceived her into signing the document. DelSignore stated that on November 10, 1992, Llewellyn terminated her employment with Smith Barney. DelSignore asserted that had she known the significance of the November 9th date, she would have returned to work by that date. DelSignore alleged that Smith Barney's actions constitute disability discrimination, breach of contract, promissory estoppel, and misrepresentation.

Respondent Smith Barney in its Answer requested that the Statement of Claim be dismissed in its entirety. Smith Barney stated that DelSignore had been provided with an employee handbook that explained Smith Barney's medical leave policy, and that DelSignore had signed documents on two occasions in which she accepted this policy. Smith Barney denied that they had at any time indicated by words or otherwise that the November 9, 1992 date would not be enforced, and asserted that there was no misrepresentation, no breach of contract, and no promissory estoppel. Smith Barney also alleged that DelSignore is not "disabled" as defined under relevant law.

RELIEF REQUESTED

Claimant requested: backpay of approximately \$26,000 plus loss of benefits; frontpay of approximately \$50,000; treble damages on the backpay amount; punitive damages of \$8,500, plus whatever punitive damages may be allowed for the tort claims; and attorneys' fees and costs.

Respondent Smith Barney requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed by counterpart copies. The parties have also 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 Smith Barney Shearson, Inc. shall be and hereby is liable for, and shall pay to Claimant, Regina M. DelSignore, damages in the sum of Twenty Nine Thousand, Eight Hundred and Eighteen Dollars and No Cents. (\$29,818.00);
2. Respondent Smith Barney Shearson, Inc. shall be and hereby is liable for, and shall pay to Claimant, Regina M. DelSignore, interest in the sum of One

Thousand, Seven Hundred Eighty Nine Dollars and No Cents. (\$1,789.00);

3. Each party shall bear their own costs and expenses, including attorney's fees, other than those specifically enumerated for herein;

4. Any relief not specifically provided for herein has been denied.

FORUM FEES

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

2 hearing sessions x \$750 = \$1,500.

Pursuant to §43(c) of the Code, the NASD shall retain the non-refundable filing fee in the amount of \$500, and the hearing session deposit in the amount of \$750 previously paid to the NASD by Claimant.

The panel has ordered that the Respondent, Smith Barney, pay additional forum fees in the amount of \$750 to the N.A.S.D.

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

By The Arbitration Panel:

Dated:

<u>10-17-94</u>	s/s	<u>George A. Beck, Esq., Presiding</u> George A. Beck, Esq., Presiding Public Arbitrator
<u>10-18-94</u>	s/s	<u>Emily F. Seesel, Esq.</u> Emily F. Seesel, Esq. Public Arbitrator
<u>10-18-94</u>	s/s	<u>Jeffrey A. Schuh</u> Jeffrey A. Schuh Industry Arbitrator

Date Award Served By The NASD: 10-28-94