

AWARD

NASD Regulation, Inc.

In the matter of the Arbitration Between

Name of Claimant(s)

PaineWebber Incorporated

Arbitration
No. 95-03066

Name of Respondent(s)

Sidney Eng

REPRESENTATION

For Claimant: Kathryn L. Krebs, Esq., PaineWebber Incorporated,
Los Angeles, California

For Respondent: Anthony M. Englese, Esq., San Francisco,
California

CASE INFORMATION

Statement of Claim filed: June 21, 1995

Claimant's Reply to Counterclaim filed: January 16, 1996

Claimant's Submission Agreement signed: May 15, 1995

Statement of Answer and Counterclaim filed by Respondent: October
5, 1995

Respondent's Submission Agreement signed: October 16, 1995

HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s):
January 22, 1997 (one session)

Hearing Date(s)/Session(s): February 4, 1997 (one session)

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant PaineWebber Incorporated (PaineWebber) alleged that Respondent Sidney Eng breached the terms of Promissory Note #3985 (Note) and breached the terms of Promissory Note #4866 (Note).

Respondent Eng denied that he is indebted to PaineWebber in the amount of \$98,127.09 or in any other amount. Mr. Eng alleged that on or about March, 1994, PaineWebber placed him on administrative leave without pay; this destroyed Mr. Eng's ability to pay off any part of the Note allegedly due and owing; and that after some two and one-half months of administrative leave without pay, Mr. Eng had no choice but to seek and obtain employment outside of PaineWebber. Mr. Eng also asserted affirmative defenses.

In his Counterclaim, Mr. Eng alleged that PaineWebber violated the Labor Code of the State of California, specifically Section 2800 et sequitur, in that it arbitrarily refused to pay his attorneys' fees after March 9, 1994 and that Mr. Eng has incurred and paid legal bills of some \$75,000.00 to date of Respondent's Answer and Counterclaim and an amount to be determined in the future. Mr. Eng further alleged that PaineWebber has claimed the amount of \$19,749.00 as part of the alleged loan indebtedness. Mr. Eng further alleged that this sum was due to him as a performance bonus. Mr. Eng further alleged that prior to being placed on administrative leave without pay, he grossed \$350,000.00 per annum; since that time Mr. Eng has been grossing some \$50,000.00 per annum; and that Mr. Eng hereby counterclaims for this earnings differential over this period of time and alleged that he suffered such damages as a direct result of PaineWebber's unlawful, precipitous and arbitrary conduct.

PaineWebber generally and specifically denied each and every allegation of wrongful conduct as set forth in Mr. Eng's Counterclaim. PaineWebber further denied that Mr. Eng is entitled to general, special, consequential damages, or any other type of damages, attorneys' fees, or costs of suit. PaineWebber also asserted affirmative defenses.

RELIEF REQUESTED

PaineWebber requested \$98,127.09 plus interest, together with attorneys' fees, costs and filing costs.

PaineWebber further requested that Respondent Eng's Counterclaim be dismissed in its entirety and asserted that PaineWebber should be awarded the full sum sought under the promissory notes which are the subject of the Statement of Claim.

Respondent Eng requested:

1. Dismissal with prejudice of PaineWebber's Statement of Claim;
2. Costs and attorneys' fees; and
3. Such other and further relief as the arbitrators deem just and proper.

With respect to his Counterclaim, Respondent Eng requested:

1. An amount of at least \$150,000.00, the precise amount to be proven at the time of the hearing;
2. Costs and attorneys' fees;
3. Interest; and
4. Such other relief as the arbitrators deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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 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 Sidney Eng is liable for and shall pay to Claimant PaineWebber Incorporated the sum of \$111,900.00.

2. All claims with respect to Respondent Sidney Eng's Counterclaim are dismissed.

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

FORUM FEES

Pursuant to Section 10205(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall retain the \$600.00 hearing session deposit previously deposited by PaineWebber Incorporated as costs of this proceeding.

ARBITRATORS

Name _____ Public / Industry

Mary Curran, Esq.
Marvin G. Breen
Neil G. Clem

Industry Arbitrator
Industry Arbitrator
Industry Arbitrator

Concurring Arbitrators' Signatures

Mary Curran, Esq.



Marvin G. Breen

Neil G. Clem

Date of Decision: Feb 4, 1997

Date Served: February 21, 1997

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Mary Curran, Esq.	Industry Arbitrator
Marvin G. Breen	Industry Arbitrator
Neil G. Clem	Industry Arbitrator

Concurring Arbitrators' Signatures

Mary Curran, Esq.

Marvin G. Breen



Neil G. Clem

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Mary Curran, Esq.

Marvin G. Breen

Neil G. Clem

Date of Decision:

2/19/97

Date Served: February 21, 1997