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NASD REGULATION, INC. AWARD

In the Matter of the Arbitration Between

Names of Claimants

George Schott
Michael E. Basham

vs.

Case No.
95-03121

Name of Respondent

Smith Barney Shearson, Inc.

REPRESENTATION

For Claimants George Schott ("Schott") and Michael E. Basham ("Basham"), hereinafter collectively referred to as "Claimants," appeared Jeffrey L. Liddle, Esq. of the law firm Liddle & Robinson located in New York, New York.

For Respondent Smith Barney Shearson, Inc. ("Respondent") appeared Charles A. Gilman, Esq. of the law firm Cahill Gordon & Reindel located in New York, New York.

CASE INFORMATION

Claimants' Statement of Claim was filed on June 23, 1995. Claimants filed an Amended Statement of Claim on April 1, 1997, which incorporated original claims and new claims. Claimants filed a Reply to the Counterclaim on September 20, 1995. Claimant Schott's Submission Agreement was signed on June 22, 1995. Claimant Basham's Submission Agreement was signed on June 22, 1995.

Respondent's Statement of Answer and Counterclaim was filed on September 8, 1995. Respondent filed an Amended and Supplemental Answer and Counterclaim on March 21, 1997. On April 22, 1997, Respondent also filed a response to Schott's supplemental claim for abuse of process. Respondent's Submission Agreement was signed on September 9, 1995.

HEARING INFORMATION

Pre-Hearing Conferences:	February 6, 1997	-	One Session
	February 20, 1997	-	One Session
	February 27, 1997	-	One Session
	June 3, 1997	-	One Session
	November 17, 1997	-	One Session
Hearing Dates/Sessions:	March 3, 1997	-	Two Sessions
	March 4, 1997	-	Two Sessions
	March 14, 1997	-	One Session
	June 12, 1997	-	Two Sessions
	June 13, 1997	-	Two Sessions
	June 30, 1997	-	Two Sessions
	July 1, 1997	-	Two Sessions

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July 2, 1997	-	Two Sessions
July 30, 1997	-	One Session
August 11, 1997	-	Three Sessions
August 12, 1997	-	Three Sessions
August 14, 1997	-	One Session
August 22, 1997	-	Two Sessions
August 25, 1997	-	Three Sessions
October 10, 1997	-	Three Sessions
November 18, 1997	-	One Session
November 19, 1997	-	Two Sessions
November 20, 1997	-	Two Sessions
December 11, 1997	-	Two Sessions

The pre-hearing conferences were held telephonically. The hearing was conducted at the offices of NASD Regulation, Inc. located in New York, New York, with the exception of the sessions conducted on March 3, 1997, which were conducted at the Club Quarters, located in New York, New York.

CASE SUMMARY

Claimants Schott and Basham alleged that they were employed by Respondent from February 1990 and September 1991, respectively and that Respondent terminated their employment without cause on October 1994 and September 1994, respectively.

Claimants alleged that they spearheaded negotiations for a joint venture with H.G. Asia, a Hong Kong brokerage firm, on behalf of Respondent. Claimants also alleged that they cultivated the relationship between H.G. Asia and Respondent, and saved the joint venture at a time when H.G. Asia threatened to scuttle it. Claimants further alleged that they were entitled to receive 20% of the profits Respondent realized on the H.G. Asia transaction, based upon their contributions to the transaction, the substantial profit Respondent realized on it, and the principle that if they contributed toward Respondent's profitability by bringing such a transaction to the firm, they would receive a percentage of the profits realized from the deal.

Claimants asserted that their leadership of International Capital Markets, formerly Respondent's International Department, spurred remarkable growth in the division. Claimants also asserted that, at the time of their terminations in 1994, Claimants had worked for approximately three-quarters of the year, yet received no bonus pay for their superior performance, which was an integral component of their annual compensation. Claimants further asserted that Respondent offered both of them inadequate offers which were comprised of a lump sum payment and a waiver of any claims they might have against the firm; Claimants maintained that they rejected their respective offers. Claimants also maintained that they believed their performance in 1994 warranted substantially greater bonus compensation, particularly because of the financial success they had instituted in International Capital Markets.

Claimants further maintained that they were also responsible for initiating a joint venture with the Korea Life Insurance Company ("Korea Life"), the second largest insurance company in Korea, in January 1994. Claimants contended that they are entitled to receive some percentage of Respondent's net profit on the transaction when it is realized because Respondent's entrance in the Korean market was made possible by Claimants' initiatives and collective experiences.

Claimants also contended that they were dismissed in the fall of 1994 without receiving any severance pay. Claimants further contended that they were entitled to receive substantial severance pay from Respondent under its severance plan, policy and practices for senior executives.

Claimant Schott alleged that he was a participant in Respondent's Capital Accumulation Plan ("CAP Plan"), where a portion of his annual compensation was taken by Respondent and invested in Travelers, Inc. stock at a discount. Claimant Schott also alleged that he did not receive the sums owed to him under the CAP Plan upon his termination.

Claimant Schott further alleged that Respondent maliciously abused the subpoena process in an effort to force Claimant Schott to abandon his claims. Claimant Schott asserted that Respondent intended to damage his employment relationship with ING Barings, his current employer, by serving a harassing subpoena on ING Barings relating to a non-existent claim.

Respondent denied any liability to either Claimants, and maintained that the claims put forth by Claimants were wholly without merit. Respondent maintained that Claimant Schott voluntarily resigned on October 3, 1994, after Respondent's Hong Kong office experienced substantial regulatory problems. Respondent also maintained that Claimant Schott concurred in management's decision to terminate Claimant Basham, whose termination was effective September 6, 1994. Respondent further maintained that neither Claimants had employment contracts with Respondent, therefore, their claims were without merit.

Respondent alleged that it does not pay finder's fees in connection with principal transactions involving the investment of the firm's own capital. Respondent also alleged that the efficient and prudent deployment of the firm's own capital is the job for which management is already hired and compensated and is never cause for the payment of finder's fees to management, therefore, Claimants were not entitled to finder's fees for the H.G. Asia transaction.

Respondent further alleged that neither Claimant earned any 1994 bonus, since neither satisfied the threshold criteria for bonus eligibility. Respondent asserted that, to be eligible for a 1994 bonus, Claimants were required to: (a) work the entire calendar year, and (b) remain at Respondent throughout the date in early 1995 when 1994 bonuses were declared and paid. Respondent also asserted that Claimants did not meet these criteria, since they were terminated in the fall of 1994.

Respondent further asserted that Claimants were not entitled to a share in the profits of the Korea Life transaction since no such transaction ever occurred, and there were no profits to share.

Respondent contended that Claimants were not entitled to severance pay, since neither Claimant had any contract entitling them to severance pay.

Respondent also contended that Claimant Schott's claim for deferred compensation was without merit because, having voluntarily resigned, Claimant was not entitled to any payment from Respondent's CAP Plan.

Respondent further contended that its issuance of the third-party subpoena to ING Barings was perfectly lawfully, fully authorized by NASD rules, and narrowly directed to elicit relevant and necessary evidence.

Respondent alleged that Claimant Schott breached express agreements with Respondent and violated the common law by taking and/or retaining confidential and proprietary information of Respondent after he

quit his employment with Respondent.

Respondent initiated a counterclaim against Claimants for initiating a meritless, groundless and frivolous claims. Respondent maintained that it was compelled to prepare a defense of the claims, and was injured thereby.

Claimants denied that their claims were frivolous, and asserted that their claims were well grounded in law and fact. Claimants asserted that the counterclaims were barred by the doctrines of waiver, laches, estoppel, statute of limitations, unclean hands, and failed to state grounds upon which relief could be granted.

RELIEF REQUESTED

Claimants requested between \$8,000,000.00 and \$10,000,000.00 in damages, plus interest, in addition to attorneys' fees and costs incurred in pursuing this arbitration. Claimants also requested that Respondent's counterclaims be dismissed in their entirety.

Respondent requested that all claims alleged in the Statement of Claim be denied in all respects, that Claimant Schott's supplemental claim for "abuse of process" be denied, and also requested the costs of defending the arbitration, including reasonable attorneys' fees.

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 original remains on file with the NASD.

The Panel denied Claimants' Motion for an offer of proof of damages to Respondent's Counterclaim.

AWARD

After considering the pleadings, the testimony and 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. Claimant Schott is awarded a total of \$309,335.68 in damages in accordance with paragraphs three and five below.
2. Claimant Basham is awarded a total of \$140,384.61 in damages in accordance with paragraph four below.
3. By a majority decision, Respondent be and hereby is liable and shall pay to Claimant Schott the sum of \$200,000.00 in severance pay, plus interest at the statutory rate from date of notification of this award until the award is satisfied.
4. Respondent be and hereby is liable and shall pay to Claimant Basham the sum of \$140,384.61 in severance pay, plus interest at the statutory rate from date of notification of this award until the award is satisfied.

5. Respondent be and hereby is liable and shall pay to Claimant Schott the sum of \$109,335.68 in deferred compensation (CAP lan), plus interest at the statutory rate from date of notification of this award until the award is satisfied.
6. Claimants' request for attorneys fees is hereby denied.
7. Claimants' request for unpaid bonus compensation is hereby denied.
8. Claimant Schott's request for damages on their abuse of process claim is hereby denied.
9. Respondent's counterclaims are hereby denied in their entirety, but Claimant Schott is hereby ordered to return all copies of confidential Smith Barney information in his possession, custody and control.
10. Respondent's requests for damages in the counterclaim are hereby denied.
11. Each party shall bear its respective costs, including attorneys' fees.
12. All other requests for relief are hereby denied.

FORUM FEES

Pursuant to Rule 10205(c) of the *Code of Arbitration Procedure*, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$500.00 non-refundable filing fee and \$2,000.00 non-refundable postponement fees previously submitted by Claimants, and the \$500.00 non-refundable filing fee previously submitted by Respondent. In addition, the arbitrators have assessed the following forum fees:

4 Pre-Hearing Conferences x \$300.00 w/Chairperson Miller	=	\$1,200.00
1 Pre-Hearing Conference w/Panel x \$1,500.00	=	\$1,500.00
38 Hearing Sessions x \$1,500.00	=	\$57,000.00
Total Forum Fees	=	\$59,700.00

1. Claimants be and hereby are liable and shall pay the sum of \$29,850.00, representing one-half of the total forum fees assessed. Claimants previously deposited \$1,500.00 with NASD Regulation, Inc., therefore, Claimants shall pay the balance of \$28,350.00 to NASD Regulation, Inc.
2. Respondent be and hereby is liable and shall pay the sum of \$29,850.00, representing one-half of the total forum fees assessed. Respondent previously deposited the sum of \$2,450.00 with NASD Regulation, Inc., therefore, Respondent shall pay the balance of \$27,400.00 to NASD Regulation, Inc.
3. Respondent be and hereby is liable and shall pay the sum of \$500.00 for the Member Surcharge. Respondent has submitted the sum of \$500.00, and, therefore, does not owe the Member Surcharge.

4. Claimant be and is also assessed \$2,000.00 in postponement fees for the postponement of the March 5 - 7, 1997 and June 3, 1997 hearings.

Fees are payable to NASD Regulation, Inc.

ARBITRATORS' SIGNATURES

I, Daniel E. Miller, Esq., do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules that I am the individual described herein and have executed this instrument which is my award.



Daniel E. Miller, Esq.
Industry Arbitrator - Chairperson

I, Lucia A. Aschettino, do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules that I am the individual described herein and have executed this instrument which is my award.

Lucia A. Aschettino
Industry Arbitrator

I, C. Anthony Bell, do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules that I am the individual described herein and who executed this instrument which is my award.

C. Anthony Bell
Industry Arbitrator

Date of Decision: February 19, 1998

4. Claimant be and is also assessed \$2,000.00 in postponement fees for the postponement of the March 5 - 7, 1997 and June 3, 1997 hearings.

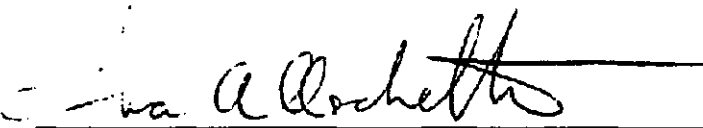
Fees are payable to NASD Regulation, Inc.

ARBITRATORS' SIGNATURES

I, Daniel E. Miller, Esq., do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules that I am the individual described herein and have executed this instrument which is my award.

Daniel E. Miller, Esq.
Industry Arbitrator - Chairperson

I, Lucia A. Aschettino, do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules that I am the individual described herein and have executed this instrument which is my award.



Lucia A. Aschettino
Industry Arbitrator

I, C. Anthony Bell, do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules that I am the individual described herein and who executed this instrument which is my award.

C. Anthony Bell
Industry Arbitrator

Date of Decision: February 19, 1998

4. Claimant be and is also assessed \$2,000.00 in postponement fees for the postponement of the March 5 - 7, 1997 and June 3, 1997 hearings.

Fees are payable to NASD Regulation, Inc.

ARBITRATORS' SIGNATURES

I, Daniel E. Miller, Esq., do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules that I am the individual described herein and have executed this instrument which is my award.

Daniel E. Miller, Esq.
Industry Arbitrator - Chairperson

I, Lucia A. Aschettino, do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules that I am the individual described herein and have executed this instrument which is my award.

Lucia A. Aschettino
Industry Arbitrator

I, C. Anthony Bell, do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules that I am the individual described herein and who executed this instrument which is my award.

C. Anthony Bell
C. Anthony Bell
Industry Arbitrator

Date of Decision: February 19, 1998