

AWARD

NASD REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Mary Cassella

NASD Case No.

95-03783

Name of Respondent

Smith Barney, Inc. (n/k/a Salomon Smith Barney, Inc.)

REPRESENTATION

Claimant Mary Cassella ("Claimant") was represented by Jeffrey L. Liddle, Esq. and Christopher C. Panarella, Esq. of the law firm of Liddle & Robinson, New York, NY.

Respondent Smith Barney, Inc. ("Respondent") was represented by Eric J. Wallach, Esq. and Jennifer Coen Isko, Esq. of the law firm of Kasowitz, Benson, Torres & Freedman, LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed: August 3, 1995

Claimant's Uniform Submission Agreement signed on: August 2, 1995

Respondent's Statement of Answer was filed: October 27, 1995

Respondent's Uniform Submission Agreement was executed by Eugene V. Clark, Senior Vice President of Smith Barney, Inc. on: October 27, 1995

HEARING INFORMATION

Hearing Dates/Sessions:

June 8, 1998 - one session
August 21, 1998 - two sessions
December 4, 1998 - two sessions
December 14, 1998 - two sessions
December 15, 1998 - two sessions
February 26, 1999 - two sessions
June 15, 1999 - two sessions
June 16, 1999 - one session
June 22, 1999 - one session

Hearing Location: NASD Regulation, Inc., Dispute Resolution Office, New York, NY

CASE SUMMARY

Claimant was employed with Respondent in New York City for almost 16 years, from December of 1978 to June of 1994. Claimant was employed as a trader of High Grade Securities within Respondent's Fixed Income Division. Claimant contended that throughout her career, she consistently demonstrated an ability to produce substantial profits, accepted greater responsibilities, and assisted in training other traders. Claimant alleged, among other things, that Respondent discriminated against her on the basis of her sex and age. Claimant alleged that Respondent paid her less than males who performed jobs involving equal levels of effort, skill and responsibility, and, ultimately, stripped Claimant of her responsibilities, terminated her employment, and otherwise treated males and younger employees more favorably. Claimant asserted that Respondent contends that it fired her because the firm had too many traders. Claimant maintained that this reason is pretextual. Claimant alleged that her department was profitable and its traders maintained a substantial workload. Claimant alleged that Respondent violated the following laws: Title VII of the Civil Rights Act of 1964 ("Title VII"), New York Executive Law, the Federal Equal Pay Act, New York Labor Law and the Administrative Code of the City of New York. Claimant alleged that Respondent owes Claimant for severance and benefit claims that it has failed and refused to pay to Claimant. Claimant alleged that Respondent owes her for her bonus claim and for tuition reimbursement. Claimant filed this arbitration to obtain, among other things, the following relief: back pay damages, front pay, punitive/liquidated damages and attorneys' fees pursuant to applicable federal, state and local laws.

Respondent categorically denied all allegations of wrongdoing and specifically maintained that neither Respondent nor any of its employees engaged in any unlawful conduct in violation of federal, state or local employment or labor laws. Respondent denied Claimant's allegation that she was discriminated against on the basis of sex or age in connection with her employment, or termination of her employment, with Respondent. Respondent maintained that all employment decisions concerning Claimant were based solely on legitimate business factors, without regard to sex or age. Respondent maintained that Claimant was a barely adequate performer for an extended period of time and that her dismissal, as part of a reduction-in-force necessitated by Respondent's acquisition of certain business units, directly reflected and resulted from her marginal standing within her department. Respondent maintained that regarding Claimant's compensation and separation pay, Claimant was treated equitably compared to her peers at Respondent. Respondent asserted the following affirmative defenses: Claimant's claim is barred for failure to state a cause of action; Claimant's claim is barred by the doctrines of estoppel, ratification, waiver, and laches; Claimant's claim is barred by the applicable statute of limitations and Claimant's claim is barred by her failure to mitigate her purported damages.

REQUESTED RELIEF

Claimant in her Statement of Claim requested the following damages:

compensatory damages of \$2,000,000,
pre-award and post-award interest,
punitive damages in such amount as the arbitrators deem appropriate, and,
payment of all of Claimant's costs, expenses and disbursements including reasonable
attorney's fees in pursuing this claim.

Respondent, in its answer, requested that Claimant's claim be dismissed in its entirety and that it be awarded its costs and expenses associated with this arbitration.

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 NASD Regulation, Inc. ("NASD Regulation").

During the course of this arbitration, Claimant made a motion to recuse arbitrator C. Anthony Bell. After due deliberation, Mr. Bell considered Claimant's request that he withdraw from the panel and determined that the basis for the challenge was not substantial, that he could rule fairly and impartially and that his withdrawal would result in an unfair delay or expense to the other party.

On December 4, 1998, Claimant made a motion to postpone the hearing. This motion was denied by the panel.

AWARD

After considering the pleadings, the testimony, 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 and find as follows:

1. That Respondent Smith Barney is liable to Claimant Mary Cassella for compensatory damages and shall pay to Mary Cassella the sum of \$135,115; no pre judgment interest is awarded on this amount. Post judgment interest will begin to accrue 30 days from the date this Award was served by NASD Regulation.
2. That the terms of Claimant's employment did not violate the Federal Equal Pay Act. That Claimant's termination did not violate Title VII of the Civil Rights Act of 1964 or the Age Discrimination in Employment Act or the New York City Human Rights Law. The panel finds that Respondent did not violate any federal, state or local statute; therefore, Claimant is not entitled to front pay, attorneys' fees and costs.

3. That the parties shall bear their own costs and attorneys' fees, except as Other Costs and Forum Fees are addressed below.
4. That any and all claims for relief not specifically addressed herein are denied in their entirety.

OTHER COSTS

Respondent, pursuant to Rule 10333 of the Code of Arbitration Procedure ("Code"), was assessed a Member Surcharge fee of \$500 which it paid.

Claimant requested a postponement of the June 9, 1998 hearing date, that postponement request was granted by the panel at the hearing on June 8, 1998. Claimant paid a postponement fee of \$1,000 which is to be retained by NASD Regulation. Respondent requested a postponement of the hearing scheduled for April 23, 1999. The hearing date was postponed and the postponement fee was waived by the panel. Claimant made a request to postpone the hearing date scheduled for June 23, 1999 and deposited a postponement fee of \$1,000. As the hearing concluded on June 22, 1999, the June 23, 1999 hearing date was not needed. The \$1000 postponement fee deposited by Claimant shall be refunded by NASD Regulation to Claimant.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed.

$(15 \text{ hearing sessions} \times \$1,000) = \$15,000$

Forum Fees Assessed Against: All forum fees are assessed against Respondent Smith Barney.

Respondent shall pay forum fees in the amount of \$15,000 to NASD Regulation. However, Respondent is entitled to offset its forum fees with an overpayment on deposit of \$500 so that the amount due as forum fees from Respondent is \$14,500. NASD Regulation, Inc. shall refund to Claimant her hearing session deposit of \$1,000.

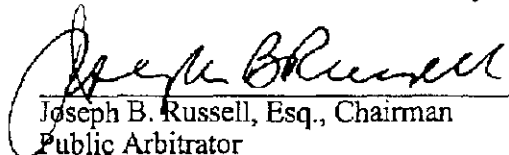
Fees are payable to the NASD Regulation, Inc.

Date Award Signed

1 Sept 1999

Concurring Arbitrators' Signatures

I, Joseph B. Russell, 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.



Joseph B. Russell, Esq., Chairman
Public Arbitrator

I, Shirley Mitgang, 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.

Shirley Mitgang, Esq., Panelist
Public 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, Panelist
Industry Arbitrator

Date Award Served by the NASD Regulation:

September 3, 1999

Date Award Signed

Concurring Arbitrators' Signatures

I, Joseph B. Russell, 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.

Joseph B. Russell, Esq., Chairman
Public Arbitrator

I, Shirley Mitgang, 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.

9/1/99

Shirley Mitgang
Shirley Mitgang, Esq., Panelist
Public 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, Panelist
Industry Arbitrator

Date Award Served by the NASD Regulation: September 3, 1999

Date Award Signed

Concurring Arbitrators' Signatures

I, Joseph B. Russell, 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.

Joseph B. Russell, Esq., Chairman
Public Arbitrator

I, Shirley Mitgang, 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.

Shirley Mitgang, Esq., Panelist
Public 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, Panelist
Industry Arbitrator

Date Award Served by the NASD Regulation:

September 3, 1999