

NASD AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Robert Jones

95-04058

5/18

Name of Respondent

Salomon Smith Barney, Inc.

REPRESENTATION

Claimant Robert H. Jones ("Claimant") was represented by Laurence S. Moy, Esq. and Christopher C. Panarella, Esq. of the law firm of Liddle & Robinson, L.L.P., New York, NY.

Respondent Salomon Smith Barney ("Respondent") was represented by William A. Hohaus, Associate General Counsel, Salomon Smith Barney, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed: August 22, 1995.

Claimant's Submission Agreement signed on: August 15, 1995.

Statement of Answer filed by Respondent on: November 21, 1995.

Respondent did not file a submission agreement.

HEARING INFORMATION

Pre-Hearing Conference: May 30, 1997 - one session

June 10, 1997 - one session

Hearing Dates/Sessions:

February 24, 1998 - two sessions

February 25, 1998 - two sessions

February 26, 1998 - two sessions

Hearing Location: Renaissance Building at Playhouse Square, Cleveland, OH.

CASE SUMMARY

Claimant alleged, among other things, that Joseph Shagrin ("Shagrin"), Claimant's former branch manager at PaineWebber, Inc. ("PaineWebber"), induced Claimant to leave PaineWebber and join Shagrin at Smith Barney. Claimant alleged that he met with Shagrin and fully disclosed to Shagrin all relevant information; moreover, Claimant provided Shagrin with information so that Shagrin could review

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Claimant's CRD. Claimant alleged that after he joined Respondent, Respondent "un-hired" him. Claimant alleged that Respondent breached its contract with Claimant and violated the implied covenant of good faith and fair dealing. Alternatively, Claimant alleged that Respondent's representations to Claimant concerning the firm's intentions to hire Claimant, the status of the firm's registration check of Claimant, and the terms upon which Claimant was hired were false when made, and Respondent is liable for its material misrepresentations. Claimant alleged that Respondent made its material misrepresentations either knowing them to be false or with reckless disregard as to their truth or falsity and with the intent that Claimant would rely on the misrepresentations to his detriment.

Respondent denied each and every allegation of wrongdoing asserted by Claimant and specifically maintained, among other things, that Claimant failed to fully disclose his history of prior complaints to Respondent. Respondent maintained that Claimant's allegation that Shagrin knew of Claimant's customer complaints is false and that the issue is that Claimant failed to make a full and accurate disclosure. Respondent maintained that when it received Claimant CRD disclosure, Respondent determined it was appropriate to terminate Claimant's employment. Respondent maintained that Claimant was an at-will employee and it violated no law when it exercised its decision to end Claimant's employment.

RELIEF REQUESTED

Claimant requested damages in an amount of at least \$260,900; plus punitive damages in an amount to be determined by the Panel, plus attorneys fees, sanctions fees, interests at a rate of 9% plus all costs related to this matter.

Respondent requested that all claims against it be dismissed in their entirety.

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 remain on file with the NASD.

Claimant's motion to bar Respondent from asserting its defenses was denied.

The Panel heard oral argument on Claimant's motion for sanction regarding the circumstances surrounding the postponement of the November, 1997 hearing dates and also permitted post hearing briefs directed to this issue. The Panel's decision regarding this motion is reflected in its Award in the section that follows.

Pursuant to Rule 10201, the Panel exercised its jurisdiction over Respondent, notwithstanding its failure to execute a uniform submission agreement.

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. That Respondent is liable to the Claimant and shall pay to Claimant the sum of \$25,000; this amount is exclusive of interest.
2. That Respondent is liable to Claimant on Claimant's motion for sanctions and Respondent shall pay to Claimant the sum of \$5,000 as a sanction.
3. That Claimant's request for punitive damages is denied in its entirety.
4. That the parties shall bear their respective costs including attorneys' fees, except as Other Costs and Forum Fees are addressed below.

OTHER COSTS

Respondents postponement fee of \$500 for its initial postponement request and \$1,000 for its second postponement request shall be retained by NASD Regulation.

FORUM FEES

Pursuant to Rule 10332(c) and Rule 10205(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed.

(2 pre hearing session with 1 arbitrator x \$300) + (6 hearing session x \$1,000) = \$6,600 - Claimant's hearing session deposit of \$1,500 = \$5,100 net due.

Respondent's member surcharge of \$500 has been paid.

Forum Fees Assessed Against: Respondent

Respondent is assessed forum fees in the amount of \$5,100; however, Respondent is entitled to offset this amount with its overpayment of \$805. Therefore the amount of fees due from Respondent is \$4,295.

Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.

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DATE SIGNED

Concurring Arbitrators' Signatures

5/6/98


Robert C. Devlin, Esq., Chairman
Public Arbitrator

Thaddeus J. Shalek, Panelist
Public Arbitrator

Sherry L. Bruce, Panelist
Industry Arbitrator

Date Award Served by NASD Regulation:

May 12, 1998

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DATE SIGNED

Concurring Arbitrators' Signatures

Robert C. Devlin, Esq., Chairman
Public Arbitrator

5-8-98


Thaddeus J. Shalek, Panelist
Public Arbitrator

Sherry L. Bruce, Panelist
Industry Arbitrator

Date Award Served by NASD Regulation:

May 12, 1998

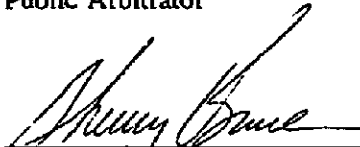
DATE SIGNED

Concurring Arbitrators' Signatures

Robert C. Devlin, Esq., Chairman
Public Arbitrator

Thaddeus J. Shalek, Panelist
Public Arbitrator

5/7/98



Sherry L. Bruce, Panelist
Industry Arbitrator

Date Award Served by NASD Regulation:

May 12, 1998