

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Thomas Reichert

95-04100

Name of Respondent

Thomas Arcuik

REPRESENTATION

For Claimant Thomas Reichert, ("Reichert"), appeared Richard B. Cohen, Esq. from Akabas & Cohen located in New York, New York.

For Respondent Thomas Arcuik, ("Arcuik"), appeared Dan Brecher, Esq. from the Law Offices of Dan Brecher located in New York, New York.

CASE INFORMATION

Statement of Claim was filed on August 29, 1995. Claimant's Submission Agreement was signed on August 23, 1995.

Statement of Answer was filed by Respondent Thomas Arcuik on October 9, 1995. Respondent Thomas Arcuik's Submission Agreement was signed on October 4, 1995.

HEARING INFORMATION

Administrative Conference:	February 7, 1996	-	1 session
Pre-Hearing Conference:	March 7, 1996	-	1 session
	June 14, 1996	-	1 session
Hearing Dates/Sessions:	June 18, 1996	-	2 sessions
	June 19, 1996	-	2 sessions
	June 20, 1996	-	2 sessions
	July 16, 1996	-	1 sessions
	July 17, 1996	-	1 sessions

All hearing sessions were held at offices of the National Association of Securities Dealers, Inc. in New York, New York.

CASE SUMMARY

Claimant, Reichert, alleged that he was employed by PaineWebber, Inc. as the branch manager of its Pearl River Office in New York. Reichert also alleged that in June 1989, he recruited and hired Respondent Arcuik as a broker to work in the Pearl River Office.

Reichert contended that he planned to expand the Pearl River Office in 1993 and that he recruited and had an oral agreement to hire four brokers from Prudential Bache who were responsible for over \$2,200,000.00 in production. Reichert further contended that all of the four aforementioned brokers ultimately refused to join his office for reasons not discernible at the time.

Reichert alleged that Arcuik announced his departure from PaineWebber to take a position with Smith Barney Shearson ("Smith Barney") in October 1993. Reichert further alleged that Arcuik had been spreading malicious falsehoods, including favoritism in the work place and stealing syndicated business and accounts, about Reichert, to potential employees.

Reichert contended that Arcuik intercepted and stole his personal and inter-office mail, his personal computer code, and broke into his computer database and stole confidential information. Reichert also contended that Arcuik made his employment deal with Smith Barney in February 1993 but purposely did not commence his employment with Smith Barney until October 1993 so that he could utilize the eight-month period to defame and disparage Reichert.

Reichert maintained that Arcuik admitted defaming and disparaging Reichert at the hearings of an arbitration which was instituted by Arcuik prior to this proceeding. Reichert also maintained that the arbitration panel of the prior arbitration dismissed Arcuik's claims in their entirety.

Respondent Arcuik contended that Reichert instituted this baseless proceeding in an effort to punish him for having brought a prior arbitration against Reichert.

Arcuik denied that he spread any baseless and false information about Reichert to his subordinates, colleagues, or potential employees. Arcuik also denied that he had engaged in any improper acts to influence the aforementioned four brokers who Reichert was planning to hire. Arcuik further denied that he intercepted and stole any of Reichert personal mails, computer code, or confidential information.

Arcuik maintained that he only told Valentino to be clear on all topics before leaving Smith Barney. Arcuik contended that he never admitted that he defamed and disparaged Reichert in the prior arbitration proceeding.

RELIEF REQUESTED

Claimant, Reichert, requested a \$2,900,000.00 compensatory award. Reichert also requested a punitive damages award against Arcuik. Reichert further requested reimbursement of attorney's fees and costs incurred.

Respondent, Arcuik, requested the case be dismissed in its entirety and reimbursement of reasonable attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Arcuik moved to dismiss the case at the end of Claimant's presentation. The panel, upon considering all the information submitted by the parties, granted the motion to dismiss in part and denied it in part with respect to all claims relating to tortious interference.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. All remaining claims against Respondent Thomas Arcuik are dismissed in their entirety.
2. Claimant Thomas Reichert's request for punitive damages is denied.
3. Each party shall bear his own attorney's fees and costs.

FORUM FEES

Pursuant to Section 44(c) of the Code of Arbitration Procedure, the arbitrators have determined that the NASD shall retain the \$250.00 non-refundable filing fee previously paid by the Claimant and have assessed the following forum fees:

8 hearing sessions X \$1,500.00	=	\$12,000.00
plus 2 pre-hearing conference sessions X \$300.00	=	\$ 600.00
Total Cost	=	\$12,600.00

The arbitrators have determined to assess Claimant Thomas Reichert one-half of the total cost of this arbitration and Respondent Thomas Arcuik one-half of the total cost of this arbitration. Therefore, Claimant Thomas Reichert is liable to and shall pay the NASD \$4,800.00

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representing one-half of the total cost of arbitration minus the \$1,500.00 hearing session deposit claimant previously paid to the NASD. Respondent Thomas Arcuik is liable to and shall pay the NASD \$6,300 representing one-half of the total cost of arbitration.

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

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ARBITRATORS' SIGNATURES



Ann C. Northern, Esq.
Public Chairperson

Eva H. Posman, Esq.
Industry Panelist

Fred S. Pieroni
Public Panelist

I, Ann Northern, Esq., 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.



Ann Northern, Esq.

NASD Date of Decision: August 28, 1996

ARBITRATORS' SIGNATURES

Ann C. Northern, Esq.
Public Chairperson



Eva H. Posman, Esq.
Industry Panelist

Fred S. Pieroni
Public Panelist

I, Eva H. Posman, Esq., 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.



Eva H. Posman, Esq.

NASD Date of Decision: August 28, 1996

ARBITRATORS' SIGNATURES

Ann C. Northern, Esq.
Public Chairperson

Eva H. Posman, Esq.
Industry Panelist

Fred S. Pieroni
Fred S. Pieroni
Public Panelist

I, Fred S. Pieroni, 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.

Fred S. Pieroni
Fred S. Pieroni

NASD Date of Decision: August 28, 1996