

**AWARD**

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

James M. Armor

and

96-05050

Name of Respondent

PaineWebber, Inc.  
Steve Jensen

REPRESENTATION OF PARTIES

James M. Armor ("Claimant") was represented by Edwin L. Sisam, Esq., Minneapolis, Minnesota.

PaineWebber, Inc. ("Respondent PaineWebber") and Steve Jensen ("Respondent Jensen") were represented by Daniel Oberdorfer, Esq., Leonard, Street & Deinard, Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about November 13, 1996. Submission Agreement of Claimant James M. Armor was signed on November 8, 1996.

Statement of Answer was filed by Respondent PaineWebber, Inc. and Steve Jensen on or about February 12, 1997. Submission Agreement of Respondent PaineWebber, Inc. was signed on February 28, 1997 by Berenice Figueredo. Submission Agreement of Respondent Steve Jensen was signed on February 28, 1997.

HEARING INFORMATION

The hearing was held on Tuesday, September 23, 1997 for two (2) sessions, Wednesday, September 24, 1997 for two (2) sessions, Thursday, September 25, 1997 for two (2) sessions and Friday, September 26, 1997 for two (2) sessions in Minneapolis, Minnesota for a total of eight (8) sessions.

CASE SUMMARY

Claimant alleged that Respondents made false and defamatory statement about Claimant. Specifically, Claimant alleged that Respondents stated that he was fired for "gross misconduct"; that he was terminated for "inappropriate behavior towards co-workers" implying that he had sexually harassed a female co-worker. It was also alleged that these statements were made in retaliation for Claimant reporting violations of state and federal laws. Claimant alleged that the actions of Respondents constituted:

- ▶ intentional defamation, negligent defamation;
- ▶ statutory retaliation/reprisal action in violation of Minnesota Statute §181.932 et. seq.;
- ▶ intentional and/or negligent infliction of emotional distress;
- ▶ conversion;
- ▶ breach of contract; and
- ▶ interference with contractual relations both existing and prospective.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically denied making false or defamatory statements about Claimant. It was stated that Respondents filed a form U-5 with the NASD as required informing the NASD that Claimant was terminated for inappropriate behavior towards co-workers.

RELIEF REQUESTED

Claimant requested an award against Respondents as follows:

- ▶ compensatory damages in the amount of \$500,000;
- ▶ damages for violation of Minn. Stat. §181.932, pursuant to Minn Stat. §181.935.;
- ▶ for costs, disbursements and reasonable attorneys' fees as provided for in Minnesota Statute 181.935; and Minnesota Statute §8.31;
- ▶ for costs, disbursements, and prejudgment interest herein;
- ▶ requiring Respondent PaineWebber to supplement its U-4 to the NASD removing the defamatory statement about Claimant; and
- ▶ for other and further damages the arbitration panel deems just and reasonable.

Respondents requested a decision against Claimant as follows:

- ▶ that Claimant recover nothing from Respondents;
- ▶ that the claim be denied with prejudice;
- ▶ that Respondents be awarded their costs, disbursements and reasonable attorneys' fees in defending this matter; and

- that the arbitrators order such other relief as it deems just and equitable.

**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(s) remain on file with the NASD Regulation, Inc. Office of Dispute Resolution.

**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. The undersigned order that the termination information for Claimant James M. Armor currently in the Central Registration Depository ("CRD") of the NASD be expunged and that the information on file be revised to reflect that Mr. Armor was terminated due to policy differences.
2. Respondent PaineWebber, Inc. shall be and hereby is severally liable for and shall pay to the Claimant James M. Armor the sum of \$50,000 (fifty thousand dollars).
3. Respondent Steve Jensen shall be and hereby is severally liable for and shall pay to the Claimant James M. Armor the sum of \$50,000 (fifty thousand dollars).
4. Respondent PaineWebber, Inc. shall be and hereby is severally liable for and shall pay to the Claimant James M. Armor attorneys' fees and costs in an amount not to exceed \$50,000. Claimant is to submit to Respondent Paine Webber an affidavit of fees setting forth the total amount of fees paid and/or incurred in this matter.
5. No interest is awarded on the above stated sums.

**FORUM FEES**

Forum fees are calculated at the rate of \$750 per hearing session and \$300 for each pre-hearing conference, if any. There were eight (8) sessions x \$750 = \$6,000 in forum fees. Pursuant to Rule 10205(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

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Pursuant to Rule of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$500 and shall retain as forum fees the hearing session deposit in the amount of \$750 previously deposited with the NASD Regulation, Inc. Office of Dispute Resolution by the Claimant James M. Armor. Respondent PaineWebber, Inc. shall be and hereby is liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the sum of \$5,250 as the balance due for forum fees.

Pursuant to Rule 10333 of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable member surcharge in the amount of \$350 paid by PaineWebber, Inc. Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.

Dated:

/s/ Lee T. Beske

October 9, 1997

Lee T. Beske  
Industry Arbitrator, Presiding Chair

/s/ Howard James Seesel, Jr.

October 9, 1997

Howard James Seesel, Jr.  
Public Arbitrator

/s/ John D. Campion

October 13, 1997

John D. Campion  
Public Arbitrator