

Final Order
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Edna Clarke, (Claimant) vs. Citicorp and Citicorp Investment Services, (Respondents)

Case Number: 99-05071

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant Edna Clarke, hereinafter referred to as "Claimant": Charmaine M. Stewart, Esq., Charmaine M. Stewart & Associates, Rosedale, NY.

Respondents Citicorp and Citicorp Investment Services ("CIS"), hereinafter collectively referred to as "Respondents": Joseph Baumgarten, Esq., Proskauer Rose LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: November 10, 1999.

Claimant signed the Uniform Submission Agreement: September 24, 1999.

Statement of Answer filed by Respondents on or about: June 22, 2000.

Citicorp signed the Uniform Submission Agreement.

CIS signed the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: age discrimination; breach of contract; harassment; intentional infliction of emotional distress; and violations of New York laws.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant's claims are barred by the applicable statute of limitations under the Age Discrimination in Employment Act; Claimant failed to commence arbitration within 90 days after receipt of a notice of right to sue from the Equal Employment Opportunity Commission; Claimants' claims are barred by the doctrine of laches by virtue of Claimant's unreasonable delay in asserting her claims, resulting in prejudice to Respondents; and Respondents' actions with respect to Claimant were taken for legitimate, non-discriminatory, non-prohibited reasons and/or for good cause.

RELIEF REQUESTED

Claimant requested that the Panel enter an Award against Respondents as follows:

- a. Finding that Respondents have intentionally engaged in unlawful discrimination;
- b. Enjoining Respondents from engaging in these unlawful employment practices;

- c. Ordering Respondents to abide by their own policies and procedures;
- d. Ordering Respondents to pay Claimant's attorney a reasonable fee in accordance with the law;
- e. Ordering Respondents to pay all costs in this action; and
- f. Awarding Claimant compensatory damages in the approximate amount of \$1,000,000.00.

Respondents requested that the Statement of Claim be denied in its entirety, and that they be awarded such other and further relief as may be just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

After considering a Motion to Compel made by Respondents, the Panel issued an Order on August 15, 2001, directing Claimant to produce certain documents to Respondents within 20 days of said Order. On October 2, 2001, Respondents filed a Motion to Dismiss based on Claimant's failure to comply with the Panel's August 15, 2001 Order. Claimant responded by letter dated October 22, 2001. Respondents filed a letter in further support of their Motion to Dismiss on October 29, 2001.

On November 14, 2001, the Panel conducted a pre-hearing conference during which the parties presented oral arguments regarding Respondents' Motion to Dismiss. The Panel issued an Order on November 15, 2001, granting the Motion to Dismiss in the event that Claimant did not comply with certain provisions outlined in said Order within 30 days from the date that the Order was mailed to the parties by NASD Dispute Resolution, Inc. On December 18, 2001, Respondent moved to dismiss this arbitration based on Claimant's failure to comply with the provisions outlined in the Panel's November 15, 2001 Order. After due consideration, the Panel has decided to dismiss this matter in its entirety, with prejudice.

The parties have agreed that the Final Order in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

DECISION

After considering the pleadings, including Respondents' Motion to Dismiss and all responses thereto, as well as the oral arguments presented at the November 14, 2001 pre-hearing conference, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are hereby dismissed in their entirety, with prejudice.
2. All other requests for relief are hereby denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 500.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, Citicorp Investment Services is a party.

Member surcharge = \$2,500.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$4,500.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel x \$1,200.00 = \$2,400.00

Pre-hearing conferences: April 23, 2001 1 session

November 14, 2001 1 session

Total Forum Fees = \$2,400.00

1. The Panel has assessed \$1,200.00 of the forum fees against Claimant.
2. The Panel has assessed \$1,200.00 of the forum fees jointly and severally against Respondents.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Respondents, requested copies, \$4.40.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee = \$ 500.00

Forum Fees = \$1,200.00

Total Fees = \$1,700.00

<u>Less payments</u>	= \$1,700.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

2. CIS be and hereby is solely liable for:

<u>Member Fees</u>	= \$7,600.00
Total Fees	= \$7,600.00
<u>Less payments</u>	= \$7,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

3. Respondents be and hereby are jointly and severally liable for:

Forum Fees	= \$1,200.00
<u>Administrative Costs</u>	= \$ 4.40
Total Fees	= \$1,204.40
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$1,204.40

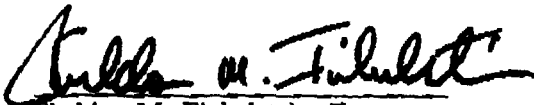
All balances are due and payable to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Sheldon M. Finkelstein, Esq.	-	Public Arbitrator, Presiding Chair
Joseph B. Russell, Esq.	-	Public Arbitrator
Edward Baer, Esq.	-	Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, 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.



Sheldon M. Finkelstein, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Joseph B. Russell, Esq.
Public Arbitrator

Signature Date

Edward Baer, Esq.
Public Arbitrator

Signature Date

January 25, 2002

Date of Service (For NASD office use only)

ARBITRATION PANEL

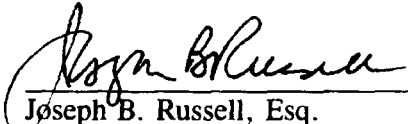
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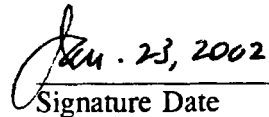
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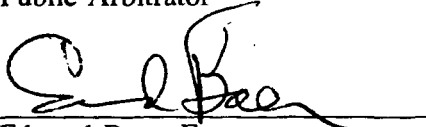
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