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ORIGINAL
FILED

MAR 31 2005

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16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO / OAKLAND DIVISION

19 RENEE FASSBENDER AMOCHAEV,
20 DEBORAH ORLANDO, KATHRYN N.
21 VARNER and JUDY WEIL, on behalf of
22 themselves and all others similarly situated,

23 Plaintiffs,

24 v.

25 CITIGROUP GLOBAL MARKETS, INC.,
26 d/b/a SMITH BARNEY,

27 Defendant.
28

C 05 Case No. **1298** **PJH**

**CLASS ACTION COMPLAINT FOR
INJUNCTIVE AND DECLARATORY
RELIEF AND DAMAGES FOR
VIOLATIONS OF TITLE VII OF THE
CIVIL RIGHTS ACT OF 1964, 42 U.S.C. §
2000e, AND THE CALIFORNIA FAIR
EMPLOYMENT AND HOUSING ACT**

DEMAND FOR JURY TRIAL

1 Individual and Representative Plaintiffs Renee Fassbender Amochaev, Deborah Orlando,
2 Kathryn Varner and Judy Weil (collectively "Plaintiffs") on behalf of themselves and all others
3 similarly situated, allege, upon personal knowledge as to themselves and upon information and
4 belief as to other matters, as follows:

5
6 **NATURE OF THE CLAIM**

7 1. Defendant Citigroup Global Markets, Inc., d/b/a Smith Barney
8 (hereinafter "Smith Barney" or "the Company") is an investment brokerage retail firm that
9 discriminates against female Financial Consultants on the basis of gender with respect to business
10 opportunities, compensation, professional support and other terms and conditions of employment
11 in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, and the
12 California Fair Employment and Housing Act, Cal. Gov't Code § 12940 *et seq.* Smith Barney is
13 the brokerage retail arm of Citigroup, the largest financial institution in the United States.

14 2. The violations are systemic, constituting a pattern and practice that
15 pervades the corporate culture of Smith Barney. They are not isolated or exceptional incidents,
16 but rather the regular and predictable result of Defendant's policies and practices. Put simply,
17 Smith Barney's policies and practices with regard to distribution of the business opportunities and
18 investment accounts under its control have the effect, and have been undertaken with the purpose,
19 of denying equal opportunities for compensation to qualified female Financial Consultants.

20 3. Smith Barney generally pays its Financial Consultants (also called "FCs"
21 or "brokers") on a commission basis, determined by the value, quality, and quantity of the
22 investment accounts the FCs acquire and manage. Investment accounts may be generated when
23 individuals with new business call in or walk into the office; through "leads" and "referrals" (e.g.,
24 when a Financial Consultant is told of a possible account opportunity and makes contact with the
25 potential account holder); by transfer from one Financial Consultant to another (e.g., when a
26 Financial Consultant retires or leaves the business); or through partnerships between Financial
27 Consultants within an office (or "branch").

28 4. But accounts and potential accounts are not simply "acquired" by brokers

1 in a vacuum, outside the control of the Company. In fact, Smith Barney has implemented a
2 companywide policy for account distribution that delegates the discretion to allocate or distribute
3 accounts, as well as the opportunities to gain new accounts, to its virtually all-male branch
4 management. Because so many accounts are obtained through the distribution process rather than
5 on an FC's own initiative, account distribution is a substantial factor affecting the compensation
6 of Smith Barney Financial Consultants.

7 5. Pursuant to Smith Barney policy and practice, accounts — or potential
8 accounts and business opportunities — are normally distributed to Financial Consultants
9 according to a uniform Smith Barney policy that allows Branch Managers to consider past
10 production (e.g., the results of historical discrimination) and the preferences of the Branch
11 Managers in the offices in which brokers work. Branch Managers have extraordinary discretion
12 to distribute these business opportunities as they choose, allowing their gender stereotypes and
13 the company-wide culture of gender discrimination to influence their decisions. As a result,
14 Smith Barney's practice is to distribute accounts and business opportunities to male Financial
15 Consultants in numbers greatly disproportionate to those distributed to similarly-situated female
16 Financial Consultants. In addition, lucrative partnership agreements are formed between male
17 brokers without adequate oversight or equal opportunity protections, subject only to rubber-stamp
18 approval by management. Women are rarely invited to partner with other brokers and thus are
19 almost wholly excluded from a means of acquiring accounts on which male brokers rely to help
20 them succeed. These discriminatory practices systematically disadvantage female Financial
21 Consultants at Smith Barney and prevent them from fairly competing for business opportunities
22 and higher compensation.

23 6. As troubling as these discriminatory policies and practices are, more
24 disturbing still is the cavalier way in which Smith Barney has treated the subject of sex
25 discrimination, its female brokers, and even its own legally binding promises. Indeed, while
26 Defendant Citigroup nominally embraces a corporate credo for Smith Barney and its subsidiaries
27 that states, "We have worked hard to create a workplace with an emphasis on inclusion,
28 innovation and merit, each rooted in our shared values and respect for our colleagues and the

1 millions of people we serve,” these statements of inclusion are belied by Smith Barney’s
2 exclusionary practices. It is also indisputable that Smith Barney is aware of its discriminatory
3 policies and practices, as this lawsuit does not represent the first time such problems have been
4 brought to light, including in previous class action gender discrimination lawsuits.

5 7. In 1997, the Company entered into a settlement agreement to resolve a
6 previous sex-discrimination class action lawsuit. In that agreement, Smith Barney also pledged,
7 *inter alia*, that it would develop non-discriminatory standards for account distribution, as well as
8 a system to ensure that employees who lodged complaints of sex discrimination were not
9 subjected to retaliation for doing so. But within only a few years of that settlement, the Company
10 has been utilizing a discriminatory account distribution system and has retaliated against, and
11 constructively discharged, female Financial Consultants – including three of the Plaintiffs here –
12 for attempting to raise sex-discrimination issues within the Company. Smith Barney’s continuing
13 discrimination and retaliation are not only illegal, but also reflect egregious violations of the
14 promises Smith Barney previously made to its female employees and to a court of law. Clearly,
15 Smith Barney has not learned from its earlier mistakes or court orders. Indeed, it now continues
16 to violate the rights of its female Financial Consultants – including the very women who have
17 attempted, within the Company’s internal procedures, to remind the Company of its own pledge
18 to take sex discrimination seriously.

19 8. Accordingly, this class action is brought by female Financial Consultants
20 on behalf of themselves individually and all similarly-situated female Financial Consultants in the
21 United States against whom Smith Barney has discriminated on the basis of gender. This action
22 seeks, finally, to end Smith Barney’s discriminatory policies and/or practices and to make the
23 Plaintiff class whole by requesting the following remedies: injunctive relief to remedy systemic
24 sex discrimination at Smith Barney; an award of back pay and front pay; and compensatory and
25 punitive damages.

26 **JURISDICTION, VENUE AND INTRADISTRICT ASSIGNMENT**

27 9. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331.

28 10. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b). Members

1 of the Plaintiff class reside in California and throughout the United States. Defendant Smith
2 Barney is a Delaware corporation licensed to do business in California. It has branch offices
3 throughout California and this District. Many of the acts complained of occurred in this State and
4 this District and gave rise to the claims alleged.

5 11. Assignment to the San Francisco/Oakland Division of this Court is proper
6 because the Plaintiffs reside within the Division and many of the acts complained of took place in
7 this Division.

8 PARTIES

9 12. Plaintiff Renee Fassbender Amochaev is a female resident of Santa Rosa,
10 California. During the course of her employment as a Financial Consultant at Smith Barney,
11 Smith Barney denied Ms. Fassbender Amochaev business opportunities on the basis of her gender
12 that directly impacted her compensation. Smith Barney retaliated against Ms. Fassbender
13 Amochaev for complaints of gender discrimination, and constructively discharged her.

14 13. Plaintiff Deborah Orlando is a female resident of Santa Rosa, California.
15 During the course of her employment as a Financial Consultant at Smith Barney, Smith Barney
16 denied Ms. Orlando business opportunities on the basis of her gender that directly impacted her
17 compensation. Smith Barney retaliated against Ms. Orlando for complaints of gender
18 discrimination, and constructively discharged her.

19 14. Plaintiff Kathryn Varner is a female resident of Santa Rosa, California.
20 During the course of her employment as a Financial Consultant at Smith Barney, Smith Barney
21 denied Ms. Varner business opportunities on the basis of her gender that directly impacted her
22 compensation. Smith Barney retaliated against Ms. Varner for complaints of gender
23 discrimination, and constructively discharged her.

24 15. Plaintiff Judy Weil is a female resident of Alamo, California. She is
25 currently a Financial Consultant in the Walnut Creek, California office of Smith Barney. During
26 the course of her employment as a Financial Consultant at Smith Barney, Smith Barney has
27 denied Ms. Weil business opportunities on the basis of her gender that directly impacted her
28 compensation.

1 21. Plaintiffs are members of the Class they seek to represent.

2 22. The members of the Class identified herein are so numerous that joinder of
3 all members is impracticable. As of the filing of this Complaint, Smith Barney has approximately
4 12,000 Financial Consultants. Although the precise number of female Financial Consultants is
5 currently unknown, it is far greater than can be feasibly addressed through joinder.

6 23. There are questions of law and fact common to the Class, and these
7 questions predominate over any questions affecting only individual members. Common
8 questions include, among others: (1) whether Smith Barney's policies or practices discriminate
9 against female Financial Consultants; (2) whether Smith Barney's Human Resources Department
10 has failed to implement policies and procedures to prevent retaliation against employees who
11 challenge perceived bias in the workplace; (3) whether Smith Barney's policies and practices
12 violate Title VII and/or the California Fair Employment and Housing Act; and (4) whether
13 equitable remedies, injunctive relief, compensatory, and punitive damages for the Class are
14 warranted.

15 24. The Representative Plaintiffs' claims are typical of the claims of the Class.

16 25. The Representative Plaintiffs will fairly and adequately represent and
17 protect the interests of the members of the Class. Plaintiffs have retained counsel competent and
18 experienced in complex class actions, employment discrimination litigation, and the intersection
19 thereof.

20 26. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(2)
21 because Smith Barney has acted and/or refused to act on grounds generally applicable to the
22 class, making appropriate declaratory and injunctive relief with respect to Plaintiffs and the Class
23 as a whole. The Class members are entitled to injunctive relief to end Smith Barney's common,
24 uniform, unfair and discriminatory policies and practices.

25 27. Class certification is also appropriate pursuant to Fed. R. Civ. P. 23(b)(3)
26 because common questions of fact and law predominate over any questions affecting only
27 individual members of the Class, and because a class action is superior to other available methods
28 for the fair and efficient adjudication of this litigation. The Class members have been damaged

1 and are entitled to recovery as a result of Smith Barney's common, uniform, unfair, and
2 discriminatory policies and practices. Smith Barney has computerized account data, payroll and
3 personnel data that will make calculation of damages for specific Class members relatively
4 simple. The propriety and amount of punitive damages are based on the conduct of the
5 Defendant, making these issues common to the Class.

6 **GENERAL POLICIES OR PRACTICES OF DISCRIMINATION**

7 28. The denials and abridgments of employment opportunities suffered by the
8 Representative Plaintiffs are part of a general policy or practice of discrimination on the basis of
9 gender in employment that has existed at Smith Barney throughout the relevant time period.
10 These are not isolated examples of employment practices or individual decisions. On the
11 contrary, these incidents are representative of Smith Barney's systematic discrimination against
12 female Financial Consultants in favor of male Financial Consultants.

13 29. Because virtually all indicia of success, advancement, and achievement at
14 Smith Barney are based on the total dollar amount of assets a Financial Consultant manages or
15 the amount s/he has produced that year, the ability to acquire new and lucrative accounts is
16 essential to a Financial Consultant's success in the business. Promotions and recognition
17 programs at Smith Barney are also based on a Financial Consultant's gross production, total
18 assets, or both. For example, officer titles, such as "First Vice President," are awarded for a
19 particular year if a Financial Consultant reaches a certain dollar amount in gross production
20 during that year. Receiving such a title also may entitle a Financial Consultant to increased
21 opportunities for account allocations, thus multiplying the disparities.

22 30. However, despite the significance of the account distribution system, the
23 nationwide account distribution policy discriminates against women. It perpetuates the historical
24 exclusion of women from account distribution and permits excessive subjectivity by Branch
25 Managers in account assignment. This is a uniform practice across Smith Barney offices. Each
26 Smith Barney branch office has a Branch Manager, who is required to follow this company
27 policy. Using data that is flawed by the historical discrimination against women in business leads
28 and the Branch Managers' personal preferences, Smith Barney distributes call-ins, walk-ins,

1 leads, and referrals to Financial Consultants within each branch. By entrusting Branch Managers,
2 virtually all of whom are men, with undue discretion in these matters, Smith Barney maintains a
3 system whereby the Branch Managers apply their own personal preferences and biases in making
4 distribution decisions.

5 31. Smith Barney has pursued policies or practices on a continuing basis that
6 have denied or restricted the availability of business opportunities, compensation, and other
7 favorable employment conditions to qualified female Financial Consultants. Such discriminatory
8 policies or practices include, without limitation:

9 a. Systematically discriminating against women in allocating accounts
10 and business opportunities that impact their opportunities for increased compensation, including,
11 but not limited to, leads, call-ins, walk-ins, accounts from departing brokers' books, and other
12 sources of business;

13 b. Systematically discriminating against women in the provision of
14 sales and professional support that impact their opportunities for increased compensation;

15 c. Relying upon unweighted, subjective, gender-based and/or arbitrary
16 criteria utilized by a nearly all-male managerial workforce in making business allocation
17 decisions that directly impact compensation;

18 d. Establishing and maintaining an arbitrary and subjective policy or
19 system regarding business allocation that has had the effect of denying compensation to qualified
20 women;

21 e. Failing and refusing to take reasonable and adequate steps to
22 eliminate the effects of Defendant's past discriminatory practices;

23 f. Permitting retaliation against employees who complain of gender
24 discrimination in the workplace;

25 g. Failing to provide women with the same quality and quantity of
26 training and mentoring as is provided to men;

27 h. Failing to provide women with the same level of sales support,
28 administrative support, and other support as is provided to men;

- 1 i. Maintaining a compensation system that perpetuates past
2 discrimination;
- 3 j. Denying women opportunities to increase their commissions and
4 other earnings;
- 5 k. Maintaining a discriminatory and gender-biased corporate culture;
6 and
- 7 l. Making employment decisions based on gender stereotypes.

8 **CLAIMS OF REPRESENTATIVE PLAINTIFFS**

9 **Renee Fassbender Amochaev**

10 32. Plaintiff Renee Fassbender Amochaev worked as a Financial Consultant
11 from March 2000 to July 23, 2004 in the Santa Rosa, California office of Smith Barney. During
12 the course of her employment, Smith Barney denied her compensation, business opportunities,
13 titles and other conditions of employment made available to similarly-situated male Financial
14 Consultants.

15 33. Since the beginning of her employment with Smith Barney, Ms.
16 Fassbender Amochaev has been denied books of business that she was qualified to receive or
17 maintain on multiple occasions. For example, in or around June 2003, Smith Barney distributed a
18 portion of Ms. Fassbender Amochaev's book of business worth \$1,634,000.00 to a male Financial
19 Consultant with no greater qualifications than Ms. Fassbender Amochaev. Similar instances have
20 happened since the beginning of her employment, including but not limited to: (1) in
21 approximately July 2003, Smith Barney distributed a book of business worth \$275,000.00 to a
22 similarly-situated male Financial Consultant; (2) in approximately September 2003, Smith Barney
23 distributed a book of business worth \$102,000.00 to a similarly-situated male Financial
24 Consultant; (3) in approximately November 2003, Smith Barney distributed a book of business
25 worth \$250,000.00 to a similarly-situated male Financial Consultant; (4) in approximately
26 January 2004, Smith Barney distributed a book of business worth \$4,122,000.00 to a similarly-
27 situated male Financial Consultant; (5) in approximately May 2004, Smith Barney distributed a
28

1 book of business worth \$415,000.00 to a similarly-situated male Financial Consultant; and (6) in
2 approximately July 2004, Smith Barney distributed a book of business worth at least
3 \$6,912,989.00 (and worth as much as approximately \$11,500,000.00) to a similarly-situated male
4 Financial Consultant. If Ms. Fassbender Amochaev had not been denied these accounts, she
5 would have generated compensation worth approximately several hundred thousand dollars.

6 34. In this same time period, Smith Barney did not allocate any significant
7 walk-in or call-in business to Ms. Fassbender Amochaev, while it did allocate such business to
8 similarly-situated male Financial Consultants. Smith Barney denied Ms. Fassbender Amochaev
9 these opportunities due to her gender.

10 35. As a result of, and/or in addition to, the gender discrimination described
11 above, Smith Barney engaged in gender discrimination against Ms. Fassbender Amochaev in
12 other ways, including, but not limited to, the following:

13 a. Smith Barney denied Ms. Fassbender Amochaev the opportunity to
14 use the title "Portfolio Manager," which was reserved for Financial Consultants who had
15 completed additional training and who managed at least 10 accounts that totaled at least
16 \$5,000,000.00 in assets. Had Smith Barney not denied her business based on her gender, Ms.
17 Fassbender Amochaev would have been able to use the title "Portfolio Manager" because she had
18 achieved all the other qualifications for the title.

19 b. Smith Barney denied Ms. Fassbender Amochaev the opportunity to
20 use the title "First Vice President." This title was reserved for Financial Advisors who had in
21 excess of \$250,000 in gross production, which Smith Barney prevented Ms. Fassbender
22 Amochaev from achieving by treating her differently than similarly-situated males.

23 c. While Smith Barney provided appropriate sales support to
24 similarly-situated male Financial Consultants, it denied such support to Ms. Fassbender
25 Amochaev;

26 d. While Smith Barney assigned similarly-situated male Financial
27 Consultants to offices with windows, it assigned Ms. Fassbender Amochaev to a less desirable
28 office without a window.

1 e. While Smith Barney provided training opportunities to similarly-
2 situated male Financial Consultants, Smith Barney did not make the same opportunities available
3 to Ms. Fassbender Amochaev.

4 36. Smith Barney denied all of these opportunities to Ms. Fassbender
5 Amochaev because of her gender.

6 37. Smith Barney subjected Ms. Fassbender Amochaev to a hostile work
7 environment after she complained about unfair, discriminatory treatment to the highest levels of
8 the company, including to the Director of Human Resources of Smith Barney. Smith Barney
9 refused to address her complaints and retaliated against her. For example, shortly after Ms.
10 Fassbender Amochaev lodged her complaints of discrimination, her manager threatened to take
11 away several of her accounts and replaced her sales assistant with someone less qualified. Smith
12 Barney management also disclosed the fact that she had complained about discrimination to her
13 male co-workers and allowed a petition to be circulated in Ms. Fassbender Amochaev's office
14 attacking her complaints. Despite Ms. Fassbender Amochaev's protests, no one was disciplined
15 for this retaliation.

16 38. As a result of the discrimination and retaliation, Smith Barney
17 constructively discharged Ms. Fassbender Amochaev from her employment with Smith Barney
18 on July 23, 2004, which caused her to lose earned stock option awards valued at approximately
19 \$32,000.00.

20 39. Smith Barney has discriminated against Ms. Fassbender Amochaev on the
21 basis of her gender by denying her business opportunities that directly impacted her
22 compensation, constructively discharging her, and retaliating against her for her complaints of
23 gender discrimination.

24 40. On or about June 25, 2004, Ms. Fassbender Amochaev filed a charge of
25 discrimination with the California Department of Fair Employment and Housing ("DFEH") and
26 the Equal Employment Opportunity Commission ("EEOC"). On or about September 2, 2004,
27 Ms. Fassbender Amochaev filed an amended charge of discrimination. The charge was amended
28 again on March 24, 2005. On March 25, 2005, she received a Notice of Right to Sue from the

1 DFEH. She has requested a Notice of Right to Sue from the EEOC. Her charge, amended
2 charges, and Notice of Right to Sue from the DFEH are attached to this Complaint as Exhibit A
3 and are incorporated by reference.

4 **Deborah Orlando**

5 41. Plaintiff Deborah Orlando was employed as a Vice President/Financial
6 Consultant in the Santa Rosa, California office of Smith Barney from February 14, 1998 to July
7 23, 2004. During the course of her employment, Smith Barney denied Ms. Orlando business
8 opportunities and compensation that it made available to similarly-situated male Financial
9 Consultants.

10 42. Smith Barney has discriminated against Ms. Orlando on the basis of her
11 gender by denying her business opportunities that directly impacted her compensation. For
12 example, on multiple occasions between June 2003 and July 2004, Smith Barney transferred
13 significant assets to similarly-situated male Financial Consultants that were not offered to Ms.
14 Orlando. In this same time period, Smith Barney likewise did not allocate any significant walk-in
15 or call-in business to Ms. Orlando, while it did allocate walk-in and call-in business to similarly-
16 situated male Financial Consultants. Smith Barney denied all of these opportunities to Ms.
17 Orlando due to her gender.

18 43. As a result of, and/or in addition to, the gender discrimination described
19 above, Smith Barney engaged in gender discrimination against Ms. Orlando in other ways,
20 including, but not limited to, the following:

21 a. While Smith Barney gave other similarly-situated male Financial
22 Consultants training opportunities, Smith Barney did not make the same opportunities available to
23 Ms. Orlando.

24 b. Smith Barney assigned Ms. Orlando to a less desirable office than it
25 assigned similarly-situated male employees.

26 44. Although Ms. Orlando complained about unfair, discriminatory treatment
27 to the company's corporate office, Smith Barney did not address her complaints. Instead, Smith
28 Barney subjected her to a hostile work environment, disclosed the fact that she had complained to

1 male co-workers, and retaliated against her for having made the complaints. As a result of the
2 discrimination and retaliation, Smith Barney constructively discharged Ms. Orlando from her
3 employment with Smith Barney on July 23, 2004. The constructive discharge caused Ms.
4 Orlando to lose approximately \$70,000 in income and approximately ten percent of the assets she
5 managed.

6 45. Smith Barney has discriminated against Ms. Orlando on the basis of her
7 gender by denying her business opportunities that directly impacted her compensation,
8 constructively discharging her, and retaliating against her for her complaints of gender
9 discrimination.

10 46. On or about September 17, 2004, Ms. Orlando filed a charge of
11 discrimination with the DFEH and the EEOC. On or about March 29, 2005, Ms. Orlando filed an
12 amended charge of discrimination. On March 29, 2005, Ms. Orlando received a Notice of Right
13 to Sue from the DFEH. Her charge and amended charge of discrimination and Notice of Right to
14 Sue are attached to this Complaint as Exhibit B and are incorporated by reference. Ms. Orlando
15 has requested a Notice of Right to Sue from the EEOC.

16 **Kathryn Varner**

17 47. Plaintiff Kathryn Varner was employed as a Financial Consultant in the
18 Smith Barney office in Modesto, California starting in 1988. She worked there continually until
19 1991, when she became a Financial Consultant in the Santa Rosa, California office of Smith
20 Barney. In 1993, she was made a Vice President. She was employed by Smith Barney until July
21 16, 2004. During the course of her employment, Smith Barney denied her business opportunities
22 and compensation made available to similarly-situated male Financial Consultants.

23 48. Smith Barney has discriminated against Ms. Varner on the basis of her
24 gender by denying her business opportunities that directly impacted her compensation. For
25 example, on multiple occasions between June 2003 and July 2004, Smith Barney transferred
26 significant assets to similarly-situated male Financial Consultants that were not offered to Ms.
27 Varner. In this same time period, Smith Barney likewise did not allocate any significant walk-in
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1 or call-in business to Ms. Varner, while it did allocate walk-in and call-in business to similarly-
2 situated male Financial Consultants. Smith Barney denied Ms. Varner all of these opportunities
3 due to her gender.

4 49. In March or April, 2004, Ms. Varner complained of gender discrimination
5 to the Smith Barney Human Resources Department. Although Ms. Varner complained about the
6 unfair, discriminatory treatment she had experienced to the Regional Human Resources Director,
7 Smith Barney failed to address her complaints. Instead, Smith Barney disclosed the fact that she
8 had complained to her male coworkers and retaliated against her for making such complaints. As
9 a result of the discrimination and retaliation, Smith Barney constructively discharged Ms. Varner
10 from her employment on July 16, 2004. Ms. Varner lost at least \$50,000 in commission as a
11 result of being constructively discharged.

12 50. Smith Barney discriminated against Ms. Varner on the basis of her gender
13 by denying her business opportunities that directly impacted her compensation, constructively
14 discharging her, and retaliating against her for her complaints of gender discrimination.

15 51. On or about November 22, 2004, Ms. Varner filed a charge of
16 discrimination with the DFEH and the EEOC. Ms. Varner has received a Notice of Right to Sue
17 from the DFEH on March 30, 2005. Attached to this Complaint as Exhibit C, and incorporated
18 by reference, are copies of her charge and Notice. Ms. Varner has requested a Notice of Right to
19 Sue from the EEOC.

20
21 **Judy Weil**

22 52. Plaintiff Judy Weil is employed as a Financial Consultant in the Walnut
23 Creek, California office of Smith Barney. She has been employed by Smith Barney since
24 November 1998.

25 53. Smith Barney has discriminated against Ms. Weil on the basis of her
26 gender by denying her business opportunities that have directly impacted her compensation and
27 that were made available to similarly-situated male Financial Consultants. For example, in
28

1 business opportunities and compensation, in the loss of past and future wages and other job
2 benefits, as compared to similarly-situated male Financial Consultants.

3 58. Defendant has intentionally discriminated against Plaintiffs and the Class
4 by maintaining a pattern and practice of denying business opportunities and accounts that directly
5 affect compensation to qualified female Financial Consultants on the basis of sex. The foregoing
6 conduct constitutes illegal, intentional discrimination as unjustified disparate treatment prohibited
7 by 42 U.S.C. §§ 2000e *et seq.*

8 59. Plaintiffs request relief as hereinafter described.

9 **SECOND CLAIM FOR RELIEF**
10 **(Disparate Impact Discrimination)**
11 **(Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*)**
12 **(On behalf of All Plaintiffs and the Class)**

13 60. Plaintiffs incorporate the preceding paragraphs as alleged above.

14 61. This Claim is brought by all Representative Plaintiffs on behalf of
15 themselves and the Class they represent. Plaintiffs have timely filed charges with the EEOC
16 making classwide claims of discrimination as well as individual claims. On March 30, 2005,
17 Plaintiff Judy Weil received a Notice of Right to Sue from the EEOC. The other Plaintiffs have
18 requested Notices of Right to Sue. At least one Plaintiff has exhausted her administrative
19 remedies on her own behalf and on behalf of the other Plaintiffs in this action and on behalf of the
20 class at the time of filing.

21 62. Smith Barney has maintained a system and/or policies that are
22 discriminatory, subjective, standardless, and/or arbitrary with respect to the distribution of
23 accounts and business opportunities which affect compensation and other terms and conditions of
24 employment. This system has an adverse impact on female employees and is not, and cannot be,
25 justified by business necessity. Even if such system could be justified by business necessity, less
26 discriminatory alternatives exist and would equally serve any alleged necessity.

27 63. Plaintiffs request relief as hereinafter described.
28

1
2 **THIRD CLAIM FOR RELIEF**
3 **(Gender Discrimination)**
4 **(California Fair Employment and Housing Act, Cal. Gov't Code §§ 12940 *et seq.*)**
5 **(On behalf of Plaintiffs and the California Subclass)**

6 64. Plaintiffs incorporate the preceding paragraphs as alleged above.

7 65. This claim is brought on behalf of Plaintiffs Renee Fassbender Amochaev,
8 Deborah Orlando, Kathryn Varner, and Judy Weil, and the Subclass of female Financial
9 Consultants from California offices.

10 66. As described herein, Smith Barney's actions constitute gender
11 discrimination in violation of the California Fair Employment and Housing Act (FEHA).
12 Plaintiff Judy Weil has received a Right to Sue letter from the DFEH. The pendency of EEOC
13 investigations into Plaintiffs' charges tolled the time limit for filing civil actions pursuant to the
14 Fair Employment and Housing Act. Plaintiffs have timely complied with all prerequisites to suit.

15 67. Plaintiffs request relief as hereinafter provided.

16 **ALLEGATIONS REGARDING RELIEF**

17 68. Plaintiffs and the Class they seek to represent have no plain, adequate, or
18 complete remedy at law to redress the wrongs alleged herein, and the injunctive relief sought in
19 this action is the only means of securing complete and adequate relief. Plaintiffs and the Class
20 they seek to represent are now suffering, and will continue to suffer, irreparable injury from
21 Defendant's discriminatory acts and omissions.

22 69. Smith Barney's actions have caused and continue to cause Plaintiffs and all
23 Class members substantial losses in earnings and other employment benefits.

24 70. In addition, Representative Plaintiffs and the Class suffer and continue to
25 suffer humiliation, embarrassment, and anguish, all to their damage in an amount according to
26 proof.

27 71. Smith Barney performed the acts herein alleged with malice or reckless
28 indifference. Plaintiffs and Class members are thus entitled to recover punitive damages in an
amount according to proof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and the Class pray for relief as follows:

72. Certification of the case as a class action on behalf of the proposed Class;

73. Designation of Representative Plaintiffs Renee Fassbender Amochaev, Deborah Orlando, Kathryn Varner and Judy Weil as representatives of the Class;

74. Designation of Representative Plaintiffs' counsel of record as Class counsel;

75. A declaratory judgment that the practices complained of herein are unlawful and violate 42 U.S.C. §§ 2000e, *et seq.*, and the California FEHA, Cal. Gov't Code §§ 12940, *et seq.*;

76. A preliminary and permanent injunction against Smith Barney and its officers, agents, successors, employees, representatives, and any and all persons acting in concert with them, from engaging in each of the unlawful policies, practices, customs, and usages set forth herein;

77. An order that Smith Barney institute and carry out policies, practices, and programs that provide equal employment opportunities for all employees regardless of gender, and that it eradicate the effects of its past and present unlawful employment practices;

78. An order restoring Plaintiffs and Class members to their rightful positions at Smith Barney, or in lieu of reinstatements, an order for front pay benefits;

79. Back pay (including interest and benefits) for individual Plaintiffs and Class members;

80. All damages sustained as a result of Smith Barney's conduct, including damages for emotional distress, humiliation, embarrassment, and anguish, according to proof;

81. Exemplary and punitive damages in an amount commensurate with Smith Barney's ability to pay and to deter future conduct;

82. Costs incurred herein, including reasonable attorneys' fees to the extent allowable by law;

- 1 83. Pre-judgment and post-judgment interest, as provided by law; and
- 2 84. Such other and further legal and equitable relief as this Court deems
- 3 necessary, just, and proper.

4 Dated: March 31, 2005

Respectfully submitted,

LIEFF, CABRASER, HEIMANN &
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DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury as to all issues so triable.

Dated: March 31, 2005

Respectfully submitted,

LIEFF, CABRASER, HEIMANN &
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