

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FILED

FEB 22 2024

Clerk of the Court
Superior Court of CA County of Santa Clara
BY [Signature] DEPUTY
E. DeSantiago

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

NADIRA H. AKBARI,

Plaintiff,

v.

S5 ADVISORY, INC., SUSHMA MALHOTRA
and DOES 1-25, inclusive,

Defendants.

Case No.: 17-CV-314927

JEP

**~~PROPOSED~~ JUDGMENT
FOLLOWING PARTIAL JURY
VERDICT AND COURT TRIAL ON
REMAINING COUNTS**

This action came on regularly for trial on January 22, 2024, in Department 5 of the Superior Court of California, County of Santa Clara, the Honorable Lori E. Pegg presiding; the Plaintiff Nadira Helmand Akbari ("Plaintiff") appearing by attorney Lubna K. Jahangiri and the Defendants S5 Advisory, Inc. and Sushma Malhotra appearing by attorneys Robert E. Camors, Jr. and Monte Malhotra.

The First Amended Complaint was the operative complaint at trial. During trial, Plaintiff dismissed with prejudice the Third Cause of Action; the Fourth Cause of Action; the Fifth Cause of Action; the Seventh Cause of Action; the Eleventh Cause of Action; and the Thirteenth Cause of Action. Four causes of action were tried by a jury: First Cause of Action for Breach of Contract against S5 Advisory, Inc. only; the Second Cause of Action for Breach of the Implied Covenant of

1 Good Faith and Fair Dealing against S5 Advisory, Inc. only; the Sixth Cause of Action for False
2 Promise which was pleaded as Fraud and Misrepresentation and which was against Sushma Malhotra
3 only, and the Twelfth Cause of Action for Harassment Based On Gender and Condition of Pregnancy
4 against both S5 Advisory, Inc. and Sushma Malhotra.

5 A jury of twelve persons was regularly impaneled and sworn to decide the four causes of
6 action of the First Amended Complaint that were to be tried by the jury. Witnesses were sworn and
7 testified. After hearing the evidence and arguments of counsel, the jury was duly instructed by the
8 Court and the four causes of action to be tried by the jury were submitted to the jury. The jury
9 deliberated and thereafter returned to Court on February 13, 2024 with its verdict as follows:

- 10 1. On the First Cause of Action for Breach of Contract, Plaintiff did all or substantially all of
11 the significant things that the contract required her to do, and all the conditions that were
12 required for S5 Advisory's performance had occurred. Defendant S5 Advisory, Inc. did not
13 fail to do anything that the contract required it to do. Plaintiff is to take nothing from
14 Defendant S5 Advisory, Inc.;
- 15 2. On the Second Cause of Action for Breach of the Implied Covenant of Good Faith and Fair
16 Dealing, Plaintiff Nadira Akbari and Defendant S5 Advisory, Inc. entered into a contract.
17 Plaintiff did all or substantially all of the significant things that the contract required her to
18 do, and all the conditions that were required for S5 Advisory's performance had occurred.
19 S5 Advisory did not unfairly interfere with Plaintiff's right to receive the benefits of the
20 contract. Plaintiff is to take nothing from Defendant S5 Advisory, Inc.;
- 21 3. On the Sixth Cause of Action for False Promise which was pleaded as Fraud and
22 Misrepresentation, Defendant Sushma Malhotra did not make a false promise to Plaintiff
23 that she would be entitled to receive twenty-five percent (25%) of the profits of S5
24 Advisory, Inc. if she left her job and came to work at S5 Advisory. Plaintiff is to take
25 nothing from Defendant Sushma Malhotra; and
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

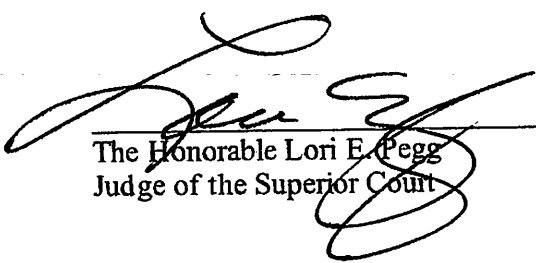
4. On the Twelfth Cause of Action for Harassment Based On Gender and Condition of Pregnancy, Plaintiff was not subjected to harassing conduct by Sushma Malhotra because she was a woman or because of her condition of pregnancy and gender. Plaintiff is to take nothing from Defendant S5 Advisory, Inc. or Sushma Malhotra.

Three equitable causes of action remained for decision by the Court after the jury reached its aforesaid verdict: the Eighth Cause of Action for Declaratory Relief; the Ninth Cause of Action for Accounting; and the Tenth Cause of Action for Unjust Enrichment, Constructive Trust and Disgorgement. All three equitable causes of action were pleaded against both Defendants S5 Advisory, Inc. and Sushma Malhotra.

The three equitable causes of action having been argued and submitted for decision, and the court having heard and considered all the evidence admitted at the jury trial and arguments of counsel, the Court found no substantial evidence introduced before the jury at trial supported plaintiff's Eighth Cause of Action for Declaratory and Injunctive Relief; her Ninth Cause of Action for an Accounting; or her Tenth Cause of Action for Unjust Enrichment, Constructive Trust and Disgorgement. In rendering its judgment, the Court did not consider any evidence not admitted to the jury.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that Defendants S5 Advisory, Inc. and Sushma Malhotra shall have judgment on all causes of action of the First Amended Complaint against Plaintiff Nadira H. Akbari.

Dated: February 21, 2024


The Honorable Lori E. Pegg
Judge of the Superior Court