

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----- x	:	I.A.S. Part to be assigned
FINANCIAL INDUSTRY REGULATORY	:	Index No.: _____
AUTHORITY, INC. and JOHN BRAUT,	:	
	:	Date of filing: _____/13
Plaintiffs,	:	
	:	
v.	:	SUMMONS
	:	
LING CHAN,	:	Plaintiffs designate New York
	:	County as the place of trial.
Defendant.	:	The basis of venue is
	:	Plaintiffs' business address.
----- x	:	

Defendant's Address:
Ling Chan
8787 23rd Avenue
Brooklyn, New York 11214

TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to answer the complaint in this action within twenty days after the service of this summons, exclusive of the day of service or within thirty days after service is completed if the summons is not personally delivered to you within the State of New York. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

NOTICE OF NATURE OF ACTION AND RELIEF SOUGHT

The object of the above-entitled action is to obtain injunctive relief to prohibit Defendant Ling Chan from trespassing on Plaintiff Financial Industry Regulatory Authority, Inc.'s ("FINRA") computer systems and from engaging in deliberate and malicious campaign of harassment and intimidation against Plaintiff John Braut and other FINRA employees. Monetary damages are also sought (including but not limited to compensatory and exemplary damages) in

an amount to be proven at trial, plus incidental costs, interest and reasonable costs and fees associated with prosecuting this action.

Dated: New York, New York
August 1, 2013

Respectfully submitted,

SEYFARTH SHAW LLP

By:  _____

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Attorneys for Plaintiffs

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----- X
FINANCIAL INDUSTRY REGULATORY :
AUTHORITY, INC. and JOHN BRAUT, : I.A.S. Part to be assigned
: :
Plaintiffs, : Index No.: _____
: :
v. :
: **COMPLAINT**
LING CHAN, :
: :
Defendant. :
----- X

Plaintiffs Financial Industry Regulatory Authority, Inc. (“FINRA”) and John Braut (“Mr. Braut”) (collectively, “Plaintiffs”) by their attorneys, Seyfarth Shaw LLP, as and for their complaint against Defendant Ling Chan (“Chan” or “Defendant”), allege as follows:

NATURE OF THE ACTION

1. This is an action to enjoin Chan, a former employee of FINRA whose employment was terminated as a result of her repeated inappropriate, unprofessional and unwelcome romantic overtures to a FINRA employee in violation of FINRA’s Code of Conduct and the FINRA Employee Handbook, from continuing her campaign of harassment against FINRA and John Braut (“Braut”), FINRA’s Senior Director of Human Resources, who approved her termination.

THE PARTIES

2. FINRA is a private non-profit organization with its principal place of business located at 1735 K Street, NW, Washington, D.C. 20006, and with offices located at 1 Liberty Plaza, New York, New York 10006, 20 Broad Street, New York, New York 10005 and One World Financial Center, 200 Liberty Street, New York, NY 10281.

3. Upon information and belief, Chan is a citizen of the State of New York, residing at 8787 23rd Avenue, Brooklyn, New York 11214.

4. Chan worked for FINRA at 20 Broad Street, New York, New York 10005.

JURISDICTION AND VENUE

5. This Court has personal jurisdiction over Chan by reason of, among others, the fact that Chan resides in this State, and that a substantial part of the events giving rise to Plaintiffs' claims against Chan occurred in this State and within New York County.

6. Venue is proper in New York County by reason of the fact that Plaintiffs' business address is in this County.

FACTS COMMON TO ALL COUNTS

7. Chan was hired by FINRA on May 4, 2011 as a Financial Operations Examiner in the Regulatory Review Unit 1 of the Risk Oversight and Operational Regulation Department ("ROOR") at FINRA.

8. In or around December 2011, Chan began to sexually harass Dan Small ("Small"), a Principal Examiner who worked with Chan at FINRA.

9. Specifically, Chan made numerous unprofessional romantic overtures towards him, such as frequent requests for coffee dates (five such requests were sent on February 14, 2012 -- Valentine's Day), sent unsolicited, non-work-related e-mails, made frequent Facebook "friend" and LinkedIn "contact" requests, and bought gifts (including an initialed coffee mug, golf balls, etc.) and cards.

10. Although Small repeatedly made it clear that he was not interested in Chan romantically and that her amorous advances should stop, they did not.

11. Chan subsequently began to harass five other co-workers by asking for personal information about Small, including his private cellular telephone number and his relationship status.

12. On or about February 15, 2013, Small reported Chan's harassment of him to FINRA's Human Resources Department, which commenced an investigation into Small's complaints.

13. The investigation revealed that Chan had, indeed, engaged in the conduct reported by Small and that she had also stalked him in order to ride the subway with him.

14. Upon the conclusion of the investigation, Chan was told by Harold Miller ("Miller"), a Human Resources manager at FINRA, that she should not contact Small except for work-related matters.

15. Although Chan acknowledged Miller's directive, she ignored it by speaking with Small to discuss their seating arrangements (adjacent cubes) in the new building.

16. In response to questioning by Miller, Chan admitted that her actions were wrong, reflected bad judgment and then asked Miller to deliver to Small another love note on her behalf.

17. Chan was subsequently terminated by FINRA on February 22, 2012 for cause as a result of her failure to follow directions and cease her ongoing harassing behavior with respect to Small. Because she was terminated for cause, Chan is not eligible to be re-hired by FINRA in any position.

18. After her termination, Chan wrote another love note to Small apologizing to him for her conduct.

19. Chan thereafter wrote to John Braut and accused Miller of being verbally abusive to her during her termination discussion.

20. After investigating the matter, Braut found it to be without merit and advised Chan that FINRA's decision to terminate her employment was final.

21. Although Chan promised in her correspondence with Braut that she would stop contacting him if her supervisors in ROOR determined that her termination was final, she never accepted the finality of her termination.

22. Braut subsequently received letters from two separate attorneys on Chan's behalf claiming that FINRA's termination of Chan violated various federal, state, and local laws.

23. Braut responded by letter to both attorneys setting forth the legitimate reasons for Chan's termination and did not receive any further correspondence from either attorney.

24. Since Chan was terminated by FINRA on February 22, 2012 through July 9, 2013, she has applied 574 times to 82 positions at FINRA using at least 150 different user accounts and 11 different email accounts.

25. Chan applied for many positions for which she was unqualified.

26. In addition to applying to positions for which she was not even remotely qualified, Chan has also applied to, and continues to apply to, certain positions over and over again.

27. Chan's applications have flooded FINRA's on-line job board to the point that on December 24, 2012, Chris Snyder ("Snyder") of FINRA's Human Resources Department sent an e-mail to Chan advising that her efforts to contact FINRA staff and her future attempts at rehire would be rejected.

28. Nonetheless, Chan continued to apply for positions at FINRA.

29. In addition to inundating FINRA's on line job board, Chan has also filed 154 reports through FINRA's EthicsPoint forum, against Braut, his staff (Miller, who investigated Small's claims and Catherine Marcuccio ("Marcuccio"), who rejected Chan's employment applications upon instructions from her supervisors), and other FINRA personnel regarding her termination and other unrelated matters.

30. EthicsPoint, now called NAVEX Global, Inc. is a neutral and confidential forum for individuals to voice concerns about operations, enforcement, or other FINRA activities or staff.

31. In addition to her applications to FINRA's on-line job board and EthicsPoint reports, Chan has bombarded FINRA's Office of the Ombudsman with 129 complaints (between the time of her termination and July 23, 2013) about her job loss, interest in being rehired by FINRA, and desire to meet with Anand Ramtahal, her former supervisor.

32. Despite Snyder's communication to Chan cautioning that she would not be rehired under any circumstances, that she should not continue to file EthicsPoint reports or request rehire through the Office of the Ombudsman, and that ROOR management would not meet with her, she has continued to engage in all of these disruptive practices, requiring that Snyder repeat this same message to her through correspondence on December 29, 2012, January 1, 2013, January 14, 2013, February 12, 2013, February 28, 2013, March 1, 2013, March 9, 2013, and March 10, 2013.

33. Having failed to obtain the desired result from Snyder, on March 14, 2013, Chan wrote to Tracy Johnson, Senior Vice President of Human Resources, but received the same response as she had received from Snyder.

34. Thereafter, Chan bypassed FINRA's online job application system and wrote directly to William Wollman, Senior Vice President, FINRA Member Regulation, Office of Risk Oversight and Operational Regulation, seeking an interview and rehire.

35. On July 3, 2013, Chan wrote directly to Susan Axelrod, FINRA's Executive Vice President of Regulatory Relations, asking to meet with a FINRA manager to discuss employment opportunities.

36. Chan's never-ending harassment of FINRA's employees and processes have seriously interfered with FINRA's systems and caused a huge waste of employee time.

37. Aside from utilizing FINRA's systems and procedures for purposes for which they were not intended, upon information and belief, Chan began to sign Braut up for various unwanted magazine subscriptions, some of which were pornographic in nature, as well as for gay porn sites, using his FINRA e-mail address.

38. Upon information and belief, Chan began to sign up Marcuccio for similar unwanted magazine subscriptions, some of which were pornographic in nature, using her FINRA e-mail address.

39. Further, Braut became aware that negative and threatening postings were being made about him on various websites, including Craigslist.com, Jerk.com, Vitals.com, Dispatch.com, and Twitter.

40. These postings contained negative comments about Braut's friends, family and acquaintances, as well as threats of harm and even death threats to Braut, and graphically attacked his sexual orientation.

41. Upon information and belief, the aforementioned postings were made by Chan.

42. Plaintiffs have repeatedly asked Chan to cease her tortious and harassing conduct, to no avail.

43. Counsel for Plaintiffs sent Chan cease and desist letters on May 17, 2013, May 24, 2013, May 30, 2013, and June 13, 2013.

44. Although Chan has returned the hard copies of the letters unopened, she has acknowledged that she has read the electronic copies that were also sent to her. Nonetheless, her conduct has continued unabated.

AS AND FOR A FIRST CAUSE OF ACTION
(Trespass to Chattels)

45. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through 44 of the Complaint as if fully set forth herein.

46. FINRA owns and maintains in its offices a networked computer system with a fixed allocation of memory and other system resources.

47. By her conduct, Defendant has caused hundreds of duplicative job applications and complaints to be sent to FINRA's computer systems, including its online job application software and its EthicsPoint online portal.

48. By her conduct, Defendant has caused numerous unsolicited emails, some pornographic in nature, to be sent to Braut's e-mail address on FINRA's computer system.

49. By her conduct Defendant has caused numerous unsolicited magazine subscriptions, some pornographic in nature to be sent to Marcuccio's e-mail address on FINRA's computer system.

50. Defendant's conduct has caused a significant waste of time by FINRA personnel who have had to sort through her applications on a daily basis and open, log in, investigate and resolve her EthicsPoint complaints, and respond to her multitudinous job applications.

51. The volume of duplicative job applications and unsolicited emails caused to be sent by Defendant has impacted the utility of FINRA's computer systems.

52. Between May 2012 and July 15, 2013, 80% of all EthicsPoint complaints received by FINRA were baseless and inappropriate complaints submitted by Chan.

53. Chan's monopolization of the EthicsPoint system has seriously impacted the utility of that system.

54. Despite multiple written warnings from FINRA and its counsel imploring Defendant to cease and desist from applying for jobs at FINRA and filing conclusory Ethics Point complaints, and sending unsolicited emails, Defendant has continued to inundate FINRA's computer systems, on-line job board and EthicsPoint websites.

55. FINRA has suffered harm as a result of Defendant's trespass to its property and is entitled to damages in an amount to be proven at trial.

AS AND FOR A SECOND CAUSE OF ACTION
(Violation of New York Penal Law § 240.30)

56. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through 55 of the Complaint as if fully set forth herein.

57. Defendant has targeted employees of FINRA, including Braut, in a campaign of harassment.

58. Upon information and belief, Defendant has posted inflammatory and threatening statements (including death threats) about Braut, his family members and friends on Craigslist.com, Jerk.com, Vitals.com, Twitter and other websites.

59. Upon information and belief, Defendant has caused numerous unsolicited emails, some pornographic in nature, to be sent to Braut's email address on FINRA's computer system, some of which contain death threats.

60. Defendant intended to harass, annoy, threaten and alarm Braut by her conduct.

61. Defendant's conduct caused Braut to feel harassed, annoyed, threatened and alarmed.

AS AND FOR A THIRD CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)

62. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through 61 of the Complaint as if fully set forth herein.

63. On May 15, 2013 at 8:15 a.m., Braut received an e-mail from anonymous@foto.nl1.torservers.net in his FINRA e-mail account with the subject line "A website dedicated to an asshole" containing a link to a page on the website "Jerk.com" dedicated to Braut.

64. Among other offensive and disparaging statements specifically referring to Braut, the page contained the following threatening statements:

- i. "I want smash your ugly mug with my fist. Burn in HELL douchebag!"
- ii. "Be careful on your way home a*****!!!! I would love the opportunity to push you in front of a taxi or bus. Bye bye john braut. The world would be better with one less fag"
- iii. "John Braut, I hope you rot in hell. You are better off dead. Go get hit by a cab or subway. Good riddance is all I have to say . . .if you die"
- iv. "you look like you sick with AIDS, I hope you die from it. The world would be better without you"
- v. "Go eat SHIT! I hope you drop dead. FAGGOT! BURN IN HELL QUEER!!!"
- vi. "I am glad that I got rid of the other faggot . . . one less to worry about. He thought he was the shit like you. He couldn't cut it in the end, did he?"
- vii. "I hope your nephews know their uncle is a c***sucking faggot. Burn in hell a*****!!!"

65. Upon information and belief, Defendant caused the aforementioned threatening statements concerning Braut to be posted on “Jerk.com.”

66. Upon information and belief, Defendant forwarded the link to the Jerk.com page to Braut at his FINRA email address by using an anonymous remailer service.

67. On June 2, 2013, the following comment was posted to a news article published at The Columbus Dispatch’s website in which a quote was attributed to Braut with respect to his use of New York City’s new citi bike system: “I hope John Braut, 43 gets hit by a taxi cab using one of those bikes. It is no wonder, he has trouble using those stations. He is an idiot.”

68. Upon information and belief, Defendant caused the aforementioned threatening statement concerning Braut to be posted on “Dispatch.com.”

69. Defendant’s conduct described above is extreme and outrageous.

70. By her conduct described above, Defendant engaged in a deliberate and malicious campaign of harassment and intimidation against Braut.

71. Defendant’s conduct described above was intended to cause -- or was intended to create a substantial probability of causing -- Braut to suffer severe emotional distress.

72. Braut has suffered, and continues to suffer, severe emotional distress as a result of Defendant’s offensive and threatening internet postings.

73. Braut was shocked, outraged, and embarrassed to see Defendant’s internet postings and has suffered personal humiliation, fear, mental anguish, and damage to his reputation and standing in the community as a result.

74. But for Defendant’s conduct described above, Braut would not have suffered severe emotional distress.

75. As a result of Defendant's improper conduct, Braut has been damaged in an amount to be determined at trial.

AS AND FOR A FORTH CAUSE OF ACTION
(Common Law Prima Facie Tort)

76. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through 75 of the Complaint as if fully set forth herein.

77. By her conduct described above, Defendant has intentionally inflicted harm, resulting in special damages without excuse or justification.

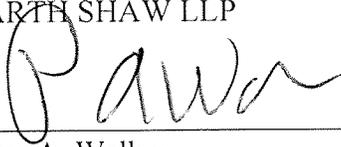
78. Upon information and belief, the sole motivation for Defendant's conduct was disinterested malevolence.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Chan granting it equitable and monetary relief (including but not limited to compensatory and exemplary damages) in an amount to be proven at trial, attorneys' fees and costs, and such other and further relief as this Court may deem just and proper.

Dated: New York, New York
August 1, 2013

Respectfully submitted,

SEYFARTH SHAW LLP

By: 

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New York, New York 10018

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Attorneys for Plaintiffs

Index No.: _____/___

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC. and JOHN BRAUT,

Plaintiffs,

- against -

LING CHAN,

Defendant.

SUMMONS & COMPLAINT

SEYFARTH SHAW LLP
Attorneys for Plaintiffs
620 EIGHTH AVENUE
NEW YORK, NEW YORK 10018
(212) 218-5500

Attorney(s)

Service of a copy of the within _____ *is hereby admitted.*

Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box

NOTICE OF
ENTRY

*that the within is a (certified) true copy of a
entered in the office of the clerk of the within named Court on _____ 2013.*

NOTICE OF
SETTLEMENT

*that an Order of which the within is a true copy will be presented for settlement to the Hon.
One of the judges of the within named Court,
at _____ M. _____ on _____*

Dated:

SEYFARTH SHAW LLP
Attorneys for Plaintiffs
620 Eighth Avenue
New York, New York 10018
(212) 218-5500

To:

Attorney(s) for