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September 27, 2018

In a Sept. 26 letter to EY Global Chairman and CEO Mark Weinberger, former partner Karen Ward, who filed a sexual harassment, gender discrimination, and retaliation complaint against the firm earlier this week, invited the firm's leadership and board of directors to meet with her to "discuss my experiences at EY and additional ways in which we can work together to make EY a better place to work for women."

Also in the letter, which was obtained by Going Concern, Ward asked to be released from the arbitration provision contained in her partnership agreement so that she can pursue her harassment and discrimination claims in court rather than behind closed doors in arbitration.

"If EY declines, Ms. Ward may be forced into secret arbitration, which will deprive the public and the media access to the proceedings," Michael Willemin, an attorney with Wigdor LLP who is representing Ward, said in a statement emailed to Going Concern. "Forced arbitration agreements are very, very harmful to employees and victims of discrimination and harassment. They provide perpetrators of unlawful conduct with the comfort of knowing that their actions will not be publicly scrutinized. We look forward to EY's response to Ms. Ward's request."

EY is declining to comment on Ward's letter to Weinberger, spokesperson John La Place told Going Concern on Thursday.

Ward's harassment and discrimination complaint, which was filed with the Equal Employment Opportunity Commission on Sept. 24, is the second such complaint levied against EY by a former female partner in less than a year.

Ward, who was hired by the Big 4 firm in 2013 and was promoted to partner in the Transaction Real Estate group within EY's Transaction Advisory Services division in 2015, alleges that her first supervisor at EY, Principal Michael McNamara, made lewd comments about her breasts, frequently suggested that she accompany him to strip clubs, texted her at 2 a.m. while on a work trip asking her to meet him for drinks, and regularly used offensive language around her.

Attempts by Going Concern to reach McNamara, who was fired from EY in 2015, for comment have been unsuccessful.

Ward also alleges that EY told her in 2013 that she would be brought in as partner to lead real estate transactions within Transaction Advisory Services but was ultimately offered a non-partner position within the Transaction Real Estate group.

When she was promoted to partner in 2015, Ward learned that she was making hundreds of thousands of dollars less than the average male partner at EY, according to the EEOC complaint.

After making several written complaints in 2014 and 2015 about the alleged harassment and discriminatory practices to her supervisor, Ward said she and her team were moved out of Transaction Real Estate and into the Ernst & Young Capital Advisors group in June 2015, where she was "explicitly told that she would no longer have any support at EY because of her complaints and gender," the complaint states.

On Aug. 14, 2018, Ward found out she was being fired because her Real Estate Capital Markets business "was not profitable," despite bringing in \$50 million in revenue during her time at EY and facilitating a deal that generated \$5 million in fees shortly before she was fired, according to the complaint.

In a statement to Going Concern earlier this week, EY called Ward's claims "unfounded and baseless," and said she was let go from the firm because "the small real estate investment banking advisory practice that she led for three years" was a "money-losing operation." The firm said "the decision to ... separate Ward was wholly unrelated to her gender," and "her allegations of harassment, retaliation and unfair pay were raised after she was informed of her separation."

Last April, former EY partner Jessica Casucci filed a similar complaint with the EEOC, accusing fellow partner John Martinkat of sexually assaulting her in front of two other male partners in a hotel bar in Orlando while they were on a business trip in 2015.

After the encounter, Martinkat continued the harassment with calls, texts, and emails asking Casucci to come to his hotel room to have sex.

Casucci and EY reached a settlement in May. As part of the settlement, Casucci agreed to leave the firm. Monetary terms of the settlement were not disclosed.

Martinkat was eventually fired by EY.

## **"Would you want your daughter working in an environment in which men openly demean women?"**

In the two-page letter to Weinberger, Ward wrote that EY, as the third largest accounting firm in the world and the employer of more than 250,000 people, carries a "moral obligation to lead by example and be at the forefront of social justice movements."

She continued:

Taking cheap shots at victims of discrimination and harassment only serves to make it less likely that women will come forward and report this kind of conduct in the future. EY's conduct is protecting the perpetrators of discrimination and harassment, as well as the many men at EY who stood by and did nothing to stop it. Is that the moral ground upon which EY wants to stand?

On March 8, 2017, Weinberger tweeted this from his personal account:

I don't want my daughter to think that she doesn't have every opportunity that my sons have.



**Mark Weinberger**  
@Mark\_Weinberger

I don't want my daughter to think that she doesn't have every opportunity that my sons have. [#BeBoldForChange](#) [@EY\\_WFF](#)  
[#IWD2017](#)

5:45 PM - Mar 8, 2017

187 74 people are talking about this

Ward mentions a similar statement from Weinberger in her letter, saying:

Yet, you run a company that treats women as second class citizens as a matter of course. Women are paid substantially less than men at EY, and men dominate EY's leadership. It is no wonder that men who engage in discrimination and harassment are protected, and that women who report it are subjected to retaliation. I encourage you to ask yourself whether you would want your daughter working in an environment in which men are permitted to openly demean and disparage women, and how you would feel if your daughter's employer maligned her in the media if she chose to stand up for her rights?

## **“Forcing women who are sexually harassed to pursue claims in arbitration only serves to facilitate assault”**

Mandatory arbitration is a contentious issue that has been in the news quite a bit lately. An arbitration provision is often included in employee contracts and pushes disputes into negotiation with a neutral arbitrator in order to prevent workers from suing companies in court.

On Sept. 25, a three-judge appeals court panel stripped class-action status from Uber drivers suing the San Francisco ride-hailing firm in the lawsuit *O'Connor v. Uber*. The drivers claimed that the company improperly classified them as contractors and forced them to cover costs that actual employees wouldn't shoulder, according to *The Mercury News*.

A district court ruling had denied Uber's bid to force drivers into arbitration, but the appeals court judges reversed that decision, citing a U.S. Supreme Court ruling from May that rejected the argument put forth in *O'Connor* that arbitration clauses violate federal law, according to the article.

In her letter to Weinberger, Ward wrote that “forcing women, as a condition of employment, to pursue claims of gender discrimination and harassment only in secret arbitration proceedings does not help to ‘build a better working world,’” referring to EY's tagline. “In fact, it does the opposite. Taking away a woman's right to a trial by a jury of her peers and providing sexual harassers and those that subject women to discrimination with the comfort of secrecy only serves to facilitate workplace harassment and hostility.”

She goes on to reference a quote from Weinberger said during a 2014 Q&A with DiversityInc: “We want [EY] to be the best professional-services organization in the world. When you're doing that you can't ignore half the world, which is women. So first of all, you've got to understand how women think.”

Ward wrote:

Mr. Weinberger, I, as a woman, “think” that forcing women who are sexually harassed and discriminated against to pursue claims in arbitration rather than in court only serves to facilitate sexual harassment and assault. It serves to embolden those who engage in sexual harassment and gender discrimination and, according to studies, makes it more likely that women who are sexually harassed will not come forward. If your statements are sincere, you should jump at the opportunity to make positive changes for women who work for EY. My request to proceed with my case in an open, public forum, rather than in the secrecy of arbitration, is just one such example of how to make positive change. I invite you and the members of EY’s Board to meet with me to discuss my experiences at EY and additional ways in which we can work together to make EY a better place to work for women.

She concluded her letter by writing:

EY has stated, “We take all allegations of sexual harassment seriously.” If EY truly does take allegations of sexual harassment seriously, it will not require its female employees to file and pursue such claims behind closed doors in arbitration.