In the real world, if you want to start a new career, you get some education, find a company to hire you, and if it doesn't work out, you move on to another employer.

Then there's the brokerage industry. Under NASD rules, those who want a brokerage license have to get a firm to "sponsor" them first. Because firms hold the entry ticket to the business, they also control what's done with it.

"This industry is like an oligopoly," says a fourth-year Smith Barney broker in Florida. "If you want to be at a major firm, you're not in the driver's seat starting out."

Control is established through the training agreement. All wirehouses and the majority of large regional firms require new hires to agree to a list of limitations. They're non-negotiable, unlike employment contracts for veteran recruits. On the list of limitations: If you leave a firm before the "training period" ends, specified as anywhere from two to four years, you must pay the firm as much as $45,000. Firms refer to this as "liquidated damages" to cover their training expenses. It transforms the broker into indentured servant.

Prudential Securities figures it costs $39,000 to repay training expenses. Trainees must stay four years, but the total owed is gradually reduced for each quarter-year the broker stays after registration. Dean Witter trainees must repay $28,000 if they leave within three years of signing the agreement. The total isn't reduced until the trainee has been employed for a full year. After that, the repayment total is reduced each year by 10% of the trainee's total gross commissions. Merrill Lynch's price tag is $38,000 if a trainee leaves within two years of registration, but is reduced by half after the first year.

Smith Barney trainees face a $45,000 bill that only expires if the broker stays 36 months after registration. But the total is reduced by 1/36 each month. PaineWebber charges $40,000 if a broker leaves within two years after registration, reduced in 25% increments.

Aggressive Enforcement There's support, even among some trainees, for repaying training costs when a broker just looks for greener pastures during a training period. "After all, a firm is really paying for your entire education to become a broker," says Randall Steinmeyer, a Minneapolis attorney. But firms extend their demands to brokers who leave the firm involuntarily--and even when they no longer work as brokers.

Many agreements only hold terminated brokers liable for repayment if they've been terminated for cause. Merrill Lynch's training agreement, though, also says a broker who "provokes the termination of employment" must pay back training costs. "Merrill Lynch will go after someone for repayment even if they're terminated for poor production," says Rick Peterson, a Houston recruiter.

A Prudential spokesperson says training agreements are proprietary information,

and therefore, the firm will not comment. Smith Barney and Merrill Lynch did not return phone calls.

Firms have stepped up enforcement of training agreements, say recruiters and attorneys. Dean Witter and Prudential Securities "never did, but now are doing so aggressively," says Michael King, a New York City recruiter. Raymond James, Wheat First and Legg Mason top the list of regional firms that for the first time are demanding training expense repayment.

How aggressive a firm can be is apparent in the story of a sales assistant in Florida who asked not to be identified. She left a wirehouse for another firm less than a year after signing a broker training agreement. Her former firm is taking her to arbitration to force repayment of the full amount of training expenses, even though she isn't currently working as a broker.

Her training, the sales assistant says, consisted solely of a three-week course at firm headquarters, after working five years as a registered sales assistant for several brokers. The idea of broker training had been presented to her as a way to work for only one broker whose production didn't yet qualify for a sales assistant. She was to be the broker's "junior" broker. There was no training follow-up back in the branch, the sales assistant says. Soon convinced she didn't want to be a broker, she moved to another firm.

"The training contract I was asked to sign is called an agreement," she says. "I remember it specifically said it's not a contract."

Protecting the Privilege Rookies can find a repayment bill lowers their value in the recruiting market.

"A prospective firm is reluctant to pay off training costs for someone bringing low production," says Mark Elzweig, a New York City recruiter. "Firms want to hire brokers with a lot of assets."

But firms will pay off at least part of a promising rookie's remaining training costs. "The manager [of the hiring firm] requests a copy of the contract to send to the legal department to see if the payback amount is worth it," says Giselle Roper, a recruiter with Concord Consultants in Boston. "The firms negotiate the payback amount. If a broker owes $18,000, a firm may negotiate it down to $10,000 to $15,000."

Firms routinely take brokers to arbitration who won't pay their bill. Firms usually win, say attorneys, although arbitrators often reduce the amount a broker has to pay. Firms win most often because brokers either don't show up for an arbitration or plead ignorance of the agreement, says Steinmeyer. "An arbitration panel won't feel sorry for a broker who doesn't read the contract," he says. "They reason that the broker is supposed to be advising others, after all."

But new trainees aren't going to carefully read an agreement they know they

can't refuse to sign, says Jonathan Biddle, a Los Angeles attorney representing a former Dean Witter broker in a training expense dispute. "Ninety-nine percent of the people who got training agreements at Dean Witter got them on the first or second day after being hired," he says. "What could they do about it? They'd already turned down other firms to work for Dean Witter."

Ignorance is typical. The Smith Barney broker in Florida, for example, says he doesn't know the repayment terms of his training contract.

Brokers win arbitrations if they can show their firm did something that forced them to quit, says Steinmeyer, such as saying the broker could only sell proprietary products. Brokers also now have "a lot of flexibility" with arbitration panels to argue whistle-blower claims, he says. Defamation counterclaims can work if the former firm badmouthed a broker to keep accounts after the broker left.

Firms fight hard to protect their right to demand training expense repayment. Biddle's client has been fighting Dean Witter for the past 10 years in arbitration and court. "Without these repayment provisions, a broker can build up a good book and then call his own shots," says Biddle. "[Striking the provision] will drive up the wages of these brokers. That's the real issue for firms."

Robert Zielke thought he was free when he accepted an offer to move to Bear Stearns in December 1996, a month after his Dean Witter training agreement expired. The firm didn't go after him for repayment of training expenses, since the agreement clearly stated there was no obligation after three years. But Dean Witter used the training agreement to hurt Zielke's business anyway. It refused to transfer 42 of Zielke's accounts--even when expressly ordered to by Zielke's customers, and in violation of NASD rules.

A few days after resigning, Zielke began processing ACATs forms for clients. Dean Witter then got an NASD arbitrator on Jan. 8, 1997, to grant a TRO, claiming that Zielke violated the non-compete clause in the training agreement.

"If he was served with a letter saying 'we'll enforce the agreement' and then solicited his accounts, that would be a violation of the agreement," says Nicholas Iavarone, one of the Chicago attorneys who represented Zielke. "He wasn't served with a notice."

The arbitrator went beyond the agreement's language by barring Zielke and Bear Stearns from accepting business from former clients and prospects, not simply from soliciting business. Shielded by the order, Dean Witter began refusing account transfers.

One of Zielke's clients, Harry Reynolds, wrote to Zielke's former branch manager, Scott Crawford, demanding that a transfer be made and accusing Dean Witter of "breaching their fiduciary responsibility." The account was transferred, but then Dean Witter demanded it back. Bear Stearns returned the account, reluctantly.

The NASD arbitrator's order ran up against NASD Rule 11870: When a customer gives written notice to transfer an account to another firm, "The carrying member must, within three business days within receipt of such instruction, A) validate and return the transfer instruction to the receiving member ... or B) take exception to the transfer instruction." The firms must "promptly resolve" any exceptions taken. The rule lists conditions that allow a firm to take an exception to a transfer instruction. No mention is made of TROs or a broker failing to follow non-compete agreements.

But the NASD apparently has no way to overrule a TRO decision made in its own arbitration forum. An NASD spokesperson says, "As a general matter, all arbitration decisions are final pending appeal to an appropriate court."

So Zielke went to court. In testimony before the Circuit Court of Cook County, Ill., on Feb. 7, Zielke's attorney, Todd Fox, laid out the NASD's rules: "If the arbitrator exceeds his powers on a temporary restraining order, the NASD can't change that. There is no appeal process within the NASD." An NASD attorney was present during the testimony.

The court ordered Dean Witter to process the 42 account transfers it had held up. Any commissions Zielke might earn from them would be held in a court escrow account until the arbitration was resolved. Court records show that not only did an outside attorney for Dean Witter, Niles Hart, try to defend the transfer holdups, he called into question Dean Witter's obligation as a fiduciary.

In the testimony, Hart and Judge Ellis Reid discuss NASD Rule 11870: Hart says he has "a more broad version" of the rule, that Dean Witter took exception to the transfer because of Zielke's violation of the terms of the contract. To resolve the exception promptly, Hart says, Dean Witter started an arbitration, "the absolute proper procedure."

Reid: "How do you intend to take care of these customers of Dean Witter, who have asked you to transfer their accounts without regard to your dispute with regard to Mr. Zielke?"

Hart: "In many number of ways." Reid: "Give me a for instance."

Hart: "They can execute any transactions they want within those accounts at Dean Witter, conversely what they can do is open a new account with Bear Stearns and Mr. Zielke ... "

Reid: "How can they do that if you have their money?"

Hart: "That's a different issue."

Judge Reid went on to say that transferring the 42 accounts promptly is Dean Witter's and Zielke's "obligation as fiduciaries that has been stated by both of you [Dean Witter's attorney and Zielke's attorney.]"

Hart: "Not by me."

Reid: "Any public licensed trade or business or profession that's licensed for the benefit of the public makes you a fiduciary to the public, just as I was when I practiced law, OK?"

Dean Witter then asked the U.S. District Court for the Northern District of Illinois, Eastern Division, to remove Judge Reid's order. Federal Judge John Grady refused, calling Dean Witter's conduct "unreasonable and vexatious," and awarded Zielke almost $8,000 in attorney's fees arising from his fight with Dean Witter in federal court.

Zielke ultimately waited four months for the TRO to be lifted on his full book. It wasn't until the arbitration was completed in August that the commissions from the 42 accounts were released to him, along with an award of $25,000 in punitive damages and $10,000 in attorneys' fees.

The arbitrators also made a disciplinary referral, asking NASD District 8 to investigate the failure of Dean Witter and Scott Crawford "to process the ACATs transfers of customer accounts ... after Feb. 7, 1997, after the injunction was removed."

NASD senior attorney Mark Nowicki, in a Sept. 3 letter to District 8 Director Carlotta Romano, says the matter is referred "for whatever action you deem appropriate" and asks her to report to him any action she takes.

An NASD spokesperson says, "As a matter of policy, we don't comment on individual arbitration cases beyond making the award document publicly available."

Dean Witter did not return phone calls.