

**STIPULATED AWARD**  
**NASD Dispute Resolution, Inc.**

*Not many list  
8.1.02*

In the Matter of the Arbitration Between

Name of Claimant

Brenda Andreas

Case No. 00-05457

Name of Respondents

UBS PaineWebber, Inc.  
Hagood Clarke, III

Hearing Site: Boca Raton, Florida

**REPRESENTATION OF PARTIES**

For Brenda Andreas ("Andreas"), hereinafter referred to as "Claimant": Russell C. Silverplate, Dickenson, Murphy, Rex and Sloan, Boca Raton, Florida.

For UBS PaineWebber, Inc. ("PaineWebber") and Hagood Clarke, III ("Clarke"), hereinafter referred to as "Respondents": Patricia E. Cowart, Esq., UBS PaineWebber, Inc., Fort Lauderdale, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: December 8, 2000.

Claimant signed the Uniform Submission Agreement on: January 10, 2001.

Joint Statement of Answer filed by Respondents on or about: April 9, 2001.

Respondent PaineWebber's Uniform Submission Agreement signed on: April 23, 2001, by Patricia Cowart, Corporate Counsel, on behalf of the firm.

Respondent Clarke signed the Uniform Submission Agreement on: April 24, 2001.

**CASE SUMMARY**

Claimant asserted the following causes of action: common law fraud; breach of fiduciary duty; violation of Sections 518.10 and 518.11, Florida Statutes; negligent failure to supervise; and negligence. The causes of action relate to Claimant's holdings in ADM stock.

Unless specifically admitted in their Answers, Respondents denied the allegations made in the Statement of Claim and asserted various defenses:

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$400,000.00, interest and costs.

Respondents requested that the Statement of Claim be dismissed in its entirety, with prejudice and that all references to this matter be expunged from the Central Registration Depository record ("CRD") of Respondent Clarke.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On or about December 28, 2001, the Parties informed NASD Dispute Resolution, Inc., that all claims against Respondents PaineWebber and Clarke were dismissed, with prejudice.

On or about January 2, 2002, the parties filed with NASD Dispute Resolution, Inc. a Stipulation to Dismiss and Expunge Registered Representative's Record, wherein the parties agreed that this matter be dismissed, with prejudice as to all Respondents; that said dismissal shall be a bar to the bringing of any action based on or including the claims or counterclaims for which this action has been or could have been brought against Respondents by Claimant or against Claimant by Respondents; and, that this matter be expunged from Respondent Clarke's CRD record.

The parties have agreed that the Stipulated Award may be executed in counterpart copies.

### **AWARD**

After considering the pleadings and the Stipulation to Dismiss and Expunge Registered Representative's Record, the arbitration Panel (the "Panel") has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against Respondents are dismissed, with prejudice.
2. The Panel recommends the expungement of all references to the above-captioned arbitration from Respondent Clarke's CRD record maintained by the NASD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Clarke must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 300.00
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#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the event giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

### **Adjournment Fees**

No adjournments were requested during these proceedings:

### **Forum Fees and Assessments**

The Panel has the authority to assess forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Panel x \$1,125.00 = \$1,125.00  
Pre-hearing conference date: August 14, 2001 1 session

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Total Forum Fees = \$1,125.00

The Panel has assessed \$375.00 of the forum fees to Claimant.

The Panel has assessed \$375.00 of the forum fees to Respondent, PaineWebber.

The Panel has assessed \$375.00 of the forum fees to Respondent, Clarke.

### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

### **Fee Summary**

Claimant be and hereby is solely liable for:

Initial Filing Fee = \$ 300.00  
Forum Fees = \$ 375.00

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Total Fees = \$ 675.00  
Less payments = \$ 675.00

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Balance Due NASD Dispute Resolution, Inc. = \$ 00.00

Respondent PaineWebber be and hereby is solely liable for:

Member Fees = \$ 4,600.00  
Forum Fees = \$ 375.00

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Total Fees = \$ 4,975.00  
Less payments = \$ 4,975.00

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Balance Due NASD Dispute Resolution, Inc. = \$ 0.00

Respondent Clarke be and hereby is solely liable for:

Forum Fees	= \$ 375.00
Less payments	= \$ 375.00
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Balance Due NASD Dispute Resolution, Inc.	= \$ 00.00

All balances are due and payable to NASD Dispute Resolution, Inc. immediately upon receipt of the Award by the parties pursuant to rule 10330(g) of the Code.

**ARBITRATION PANEL**

<i>Tim A. Shane, Esq.</i>	-	<i>Public, Presiding Chair</i>
<i>Peter J. Lavezzoli</i>	-	<i>Public/Panelist</i>
<i>Will Murphy, Esq.</i>	-	<i>Non-Public/Panelist</i>

**Concurring Arbitrators' Signature(s)**

\_\_\_\_\_/s/\_\_\_\_\_  
Tim A. Shane, Esq.  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
Peter J. Lavezzoli  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
Will Murphy, Esq.  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

May 14, 2002  
Date of Service (For NASD-Dispute Resolution office use only)

Respondents Clarke be and hereby is solely liable for:

Forum Fees	= \$ 375.00
Less payments	= \$ 375.00

Balance Due NASD Dispute Resolution, Inc.	= \$ 00.00
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Public Arbitrator

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Less payments	= \$ 375.00

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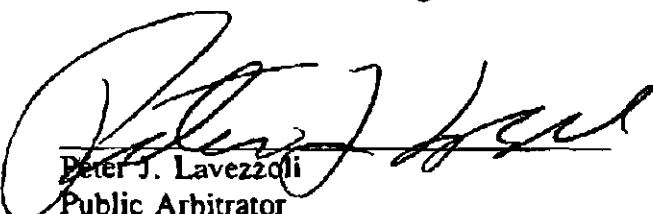
**Concurring Arbitrators' Signature(s)**

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Tim A. Shane, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date



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Peter J. Lavezzoli  
Public Arbitrator



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Signature Date

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Will Murphy, Esq.  
Non-Public Arbitrator

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Signature Date

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Date of Service (For NASD-Dispute Resolution office use only)

Respondent Clarke be and hereby is solely liable for:

Forum Fees	= \$ 375.00
Less payments	= \$ 375.00

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Balance Due NASD Dispute Resolution, Inc.	= \$ 00.00
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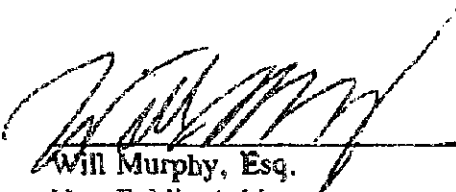
Signature Date

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Peter J. Lavezzoli  
Public Arbitrator

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Signature Date



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Will Murphy, Esq.  
Non-Public Arbitrator

*10 May 2002*  
Signature Date

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Date of Service (For NASD-Dispute Resolution office use only)