

**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Hersel Nourmand, Individually and as Trustee for the Benefit of The White Trust Dtd 1/19/99, Mozafar Nourmand, Individually, as Trustee for the Benefit of The Pacific Trust Dtd 1/19/99, and as Custodian for Erica Pary Nourmand, Monica Nourmand and Joseph Salar Nourmand, and Salar Properties, a Partnership, Claimants v. PaineWebber, Inc., David B. Harberson, Don S. Dalis, and Robert J. Langley, Respondents

Case Number: 01-02777

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimants:

Jeff Dennis Ferentz, Esq.  
Greenbaum & Ferentz, LLP  
Newport Beach, California

For Respondents:

Esther E. Cho, Esq.  
Keesal, Young & Logan  
Long Beach, California

**CASE INFORMATION**

Statement of Claim filed: May 23, 2001

Claimant Hershel Nourmand's Uniform Submission Agreement signed: May 22, 2001

Claimant Mozafar Nourmand's Uniform Submission Agreement signed: May 22, 2001

Joint Statement of Answer filed by Respondents: October 11, 2001

Respondent Paine Webber, Inc.'s Uniform Submission Agreement signed: October 11, 2001

Respondent David B. Harberson's Uniform Submission Agreement signed: October 11, 2001

Respondent Don S. Dalis' Uniform Submission Agreement signed: October 11, 2001

Respondent Robert J. Langley's Uniform Submission Agreement signed: October 11, 2001

### **CASE SUMMARY**

Claimants alleged unsuitability, fraud, deceit, omission of material fact, negligent misrepresentation, constructive fraud, breach of fiduciary duty, breach of the implied covenant of good faith and fair dealing, violations of the anti-fraud provisions of the Securities Exchange Act of 1934, and failure to supervise.

Claimants' allegations concerned: 1) the purchase of common stock in various Internet and technology companies, including America Online, Yahoo, CNET, Inc., and Dell Computer, and in the brokerage firm of Knight/Trimark Group; and, 2) the purchase of mutual fund shares in Goldman Sachs Internet Tollkeeper Fund, Munder International Netnet Fund, and Alliance Select Investor Series Technology Portfolio. Claimants' allegations included Respondent Langley's discretionary trading authority, the use of margin, and Respondents' sale to Claimants of B shares in two of the mutual funds.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimants requested \$1,966,543.00 in compensatory damages, disgorgement of Respondents' commissions and other compensation, damages for opportunity losses resulting from Respondents' failure to mitigate Claimants' \$6,440,111.00 decline in account value and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety, attorney fees, and the expungement of all reference to the above captioned arbitration from Respondents David B. Harberson's, Don S. Dalis', and Robert J. Langley's registration records maintained by the NASD Central Registration Depository.

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

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

**AWARD**

After considering the pleadings and the Parties request for this stipulated award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants and Respondents have entered into a confidential settlement agreement.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent David B. Harberson's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent David B. Harberson must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Don S. Dalis' registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Don S. Dalis must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Robert J. Langley's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Robert J. Langley 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 received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 500.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm UBS PaineWebber, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$2,500.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$4,500.00
<b>Total Member Fees</b>	<b>= \$7,600.00</b>

#### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Arbitrators or the parties and the Chair. The following fees are assessed:

One (1) Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$1,200.00
Pre-hearing conference: February 12, 2002	1 session
Four (4) Hearing sessions @ \$1,200.00/session	= \$4,800.00
Hearings: June 9, 2003	2 sessions
June 10, 2003	2 sessions
<b>Total Forum Fees</b>	<b>= \$6,000.00</b>

The Panel assessed \$3,000.00 of the forum fees jointly and severally to Claimants.

The Panel assessed \$3,000.00 of the forum fees jointly and severally to Respondents.

**Fee Summary**

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 3,000.00
Total Fees	= \$ 3,500.00
Less payments	= \$(1,800.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,700.00</b>

2. Respondent UBS PaineWebber, Inc. is charged with the following fees and costs:

Member Fees	= \$ 7,600.00
Less payments	= \$(7,600.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

3. Respondents PaineWebber Inc., David B. Harberson, Don S. Dalis, and Robert J. Langley, are charged jointly and severally with the following fees and costs:

Forum Fee	= \$ 3,000.00
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 3,000.00</b>

All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

**Parties' Signatures**



\_\_\_\_\_  
Jeff Dennis Perentz, Esq.  
On behalf of Claimants

9/30/03  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Esther E. Cho, Esq.  
On Behalf of Respondents

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


Parties' Signatures

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Jeff Dennis Ferentz, Esq.  
On behalf of Claimants

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Signature Date



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Esther E. Cho, Esq.  
On Behalf of Respondents

9/26/03

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Signature Date

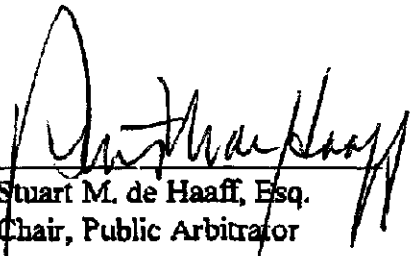
**ARBITRATION PANEL**


***Stuart M. de Haaff, Esq.***  
***Rufus V. Rhoades, Esq.***  
***Alexandra M. Linden***

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***Public Arbitrator, Presiding Chair***  
***Public Arbitrator***  
***Non-Public Arbitrator***

**Concurring Arbitrators' Signatures**

  
Stuart M. de Haaff, Esq.  
Chair, Public Arbitrator

  
Oct 7, 2003  
Signature Date

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Rufus V. Rhoades, Esq.  
Public Arbitrator

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

\_\_\_\_\_  
Alexandra M. Linden  
Non-Public Arbitrator

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

10-14-03  
Date of Service



**ARBITRATION PANEL**

*Stuart M. de Haaff, Esq.*  
*Rufus V. Rhodes, Esq.*  
*Alexandra M. Linden*

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*Public Arbitrator, Presiding Chair*  
*Public Arbitrator*  
*Non-Public Arbitrator*

**Concerning Arbitrators' Signatures**

\_\_\_\_\_  
Stuart M. de Haaff, Esq.  
Chair, Public Arbitrator



Rufus V. Rhodes, Esq.  
Public Arbitrator

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

*Oct 6, 2003*

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Signature Date

\_\_\_\_\_  
Alexandra M. Linden  
Non-Public Arbitrator

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

*10-14-03*

\_\_\_\_\_  
Date of Service

**ARBITRATION PANEL**

<i>Stuart M. de Haaff, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Rufus V. Rhoades, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Alexandre M. Linden</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Stuart M. de Haaff, Esq.  
Chair, Public Arbitrator

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

\_\_\_\_\_  
Rufus V. Rhoades, Esq.  
Public Arbitrator

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

  
\_\_\_\_\_  
Alexandre M. Linden  
Non-Public Arbitrator

10-14-03  
Signature Date

10-14-03  
Date of Service