

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

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In the Matter of the Arbitration Between:

Richard L. Harsch, Claimant v. UBS PaineWebber Inc., Patrick M. Ehret, and William Dougherty, Respondents

Case Number: 01-03083

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**REPRESENTATION OF PARTIES**

For Claimant:

Richard L. Harsch  
In Pro Per  
San Diego, California

For Respondents:

Lisa K. Donahue, Esq.  
UBS PaineWebber Inc.  
Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed: August 13, 2001

Claimant's Uniform Submission Agreement signed: June 5, 2001

Joint Statement of Answer filed by Respondents UBS PaineWebber Inc., Patrick M. Ehret, and William Dougherty: October 12, 2001

Respondent UBS PaineWebber Inc.'s Uniform Submission Agreement signed: October 12, 2001

Respondent Patrick M. Ehret's Uniform Submission Agreement signed: October 11, 2001

Respondent William Dougherty's Uniform Submission Agreement signed: October 11, 2001

**CASE SUMMARY**

In Claimant's Claim Information Sheet filed with the Statement of Claim, Claimant indicated the claim involved the following: negligence, failure to supervise, breach of fiduciary duty, churning, omission of facts, and suitability.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$20,000.00 and punitive damages in the amount of \$25,000.00.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, and reimbursement of arbitration costs. Respondents Patrick M. Ehret and William Dougherty requested expungement of all references to this matter from their CRD records.

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

On March 28, 2002, the Arbitration Chairperson ruled the dispute "may be resolved without a formal hearing by submittal on the papers by July 10, 2002." The parties were ordered to submit pre-hearing briefs (optional) on or before July 31, 2002.

The parties agreed that a handwritten, signed Award may be entered.

### **AWARD**

After considering the pleadings, the Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are denied in their entirety.
- 2) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Patrick M. Ehret's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Patrick M. Ehret 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 William Dougherty's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent William Dougherty M. Ehret must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 4) The parties shall bear their respective costs, including attorney's fees.
- 5) All other relief requested and not expressly granted is denied.

### **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	
Fee Waived by the Director of Arbitration and Arbitrator	= \$ 0.00

#### **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	= \$ 800.00
Pre-Hearing Process Fee	= \$ 600.00
<b>Total Member Fees</b>	<b>= \$ 1,400.00</b>

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

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

1 Pre-hearing conference session with the Arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: March 28, 2002 1 session	
Fee for ruling on papers	= \$ 450.00
<b>Total Forum Fees</b>	<b>= \$ 900.00</b>

1. The Arbitrator assessed \$ 450.00 of the forum fees to Claimant Richard L. Harsch.
2. The Arbitrator assessed \$ 450.00 of the forum fees jointly and severally to Respondents UBS PaineWebber Inc., Patrick M. Ehret, and William Dougherty.

**Fee Summary**

1. Claimant Richard L. Harsch is charged with the following fees and costs:

<u>Forum Fees</u>	= \$ 450.00
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 450.00</b>

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

Member Fees	= \$ 1,400.00
<u>Less payments</u>	<u>= \$(1,400.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

3. Respondents UBS PaineWebber Inc., Patrick M. Ehret, and William Dougherty are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 450.00
<u>Less payment by UBS PaineWebber Inc.</u>	<u>= \$(1,000.00)</u>
<b>Refund Due UBS PaineWebber Inc.</b>	<b>= \$( 550.00)</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.

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**ARBITRATOR**

Thomas L. Flattery, Esq.

Public Arbitrator, Presiding Chair

**Arbitrator's Signature**

*Thomas L. Flattery*

Thomas L. Flattery, Esq.  
Chair, Public Arbitrator

*8/28/02*

Signature Date

*August 28, 2002*

Date of Service