

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

UBS PaineWebber Incorporated

Case Number: 01-03254

Name of the Respondent

Mark A. Gensch

Hearing Site: Houston, Texas

REPRESENTATION OF PARTIES

Claimant UBS PaineWebber, Incorporated, hereinafter referred to as "Claimant": Lisa A. Catalano, Esq., Davidson, Manchel & Brennan, LLP., located in Northvale, New Jersey.

Respondent, Mark A. Gensch, hereinafter referred to as "Respondent": Lennon C. Wright, Esq., Law Offices of Lennon C. Wright, located in Houston, Texas.

CASE INFORMATION

Statement of Claim filed on or about: June 7, 2001.

Claimant, signed the Uniform Submission Agreement: June 7, 2001.

Statement of Answer filed by Respondent, on or about: August 14, 2001.

Respondent signed the Uniform Submission Agreement: August 8, 2001.

On August 6, 2002, Respondent filed a motion to dismiss the arbitration proceedings and a motion for sanctions. The Claimant responded to the motion to dismiss and for sanctions on August 27, 2002.

CASE SUMMARY

Claimant asserted the following cause of action: Respondent failed to pay an employee forgivable loan and promissory note after his resignation from Claimant's firm.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Respondent did not owe money on the note; Claimant is esstopped from recovery as a result of its own wrongdoing.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 110,195.00
Punitive Damages	\$ Unspecified
Interest	\$ Unspecified
Attorneys' Fees	\$ Unspecified
Other Costs	\$ Unspecified

Respondent requested:

Attorneys' Fees	\$ Unspecified
Other Costs	\$ Unspecified
Non-Monetary Relief :	Denial of all claims

OTHER ISSUES CONSIDERED AND DECIDED

On or about September 15, 2002, the Panel denied Respondents motion to dismiss.

At the time of the hearing on the merits, the Claimant amended its claim for damages on the promissory note balance to \$66,111.00 from \$110,195.00. In addition, Claimant amended the defaulted balance to \$8,320.71 from \$9,083.95. The Panel allowed the Amendments.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Mark A. Gensch is liable for and shall pay to Claimant UBS PaineWebber, Incorporated, the sum of \$74,431.81 in compensatory damages;
2. Respondent Mark A. Gensch is liable for and shall pay to Claimant UBS PaineWebber Interest on this Award in the amount of \$11,091.84;
3. Any and all relief not specifically addressed herein is denied; and
4. Unless specifically enumerated herein, all costs shall be borne by the parties who incurred them.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$1,000.00

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 events giving rise to the dispute. Accordingly, UBS PaineWebber Incorporated is the Claimant firm.

Member surcharge = \$1,500.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$2,500.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

Two (2) Pre-hearing session with Panel @ \$1,125.00 = \$2,250.00

Pre-hearing conferences: November 28, 2001 1 session

February 14, 2002 1 session

One (1) Hearing sessions @ \$1,125.00 = \$1,125.00

Hearing Dates: October 15, 2002 1 session

Total Forum Fees = \$ 3,375.00

The Arbitrator has assessed \$3,375.00 of the forum fees to Respondent Mark A. Gensch.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee = \$ 1,000.00

Member Fees = \$ 4,600.00

Total Fees = \$ 5,600.00

Less payments = \$ 6,725.00

Balance Refunded by NASD Dispute Resolution = \$ 1,125.00

2. Respondent is solely liable for:

Forum Fees	= \$ 3,375.00
Total Fees	= \$ 3,375.00
Less payments	= \$ 00
Balance Due to NASD Dispute Resolution	= \$ 3,375.00

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

ARBITRATION PANEL

Ann Miller	-Non-Public Arbitrator, Presiding Chairperson
Sarah Catherine Whitmore	-Non-Public Arbitrator
Jonathan Burke Rada, CFP	-Non-Public Arbitrator

Concurring Arbitrators' Signatures

Ann Miller
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Sarah Catherine Whitmore
Non-Public Arbitrator

Signature Date

Jonathan Burke Rada, CFP
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution
Arbitration No. 01-03254
Award Page 4

2. Respondent is solely liable for:

Forum Fees	= \$ 3,375.00
Total Fees	= \$ 3,375.00
Less payments	= \$ 0.00
Balance Due to NASD Dispute Resolution	= \$ 3,375.00

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Sarah Catherine Whitmore
Jonathan Burke Rada, CFP

- Non-Public Arbitrator, Presiding Chairperson
- Non-Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures

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Ann Miller
Non-Public Arbitrator, Presiding Chairperson

11-21-02
Signature Date

Sarah Catherine Whitmore
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Non-Public Arbitrator

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