

Revised Award  
NASD Dispute Resolution

---

In the Matter of the Arbitration Between:

Name of the Claimants

Todd C. Alston  
Grace Cole-Alston

Case Number: 02-04979

Name of the Respondents

UBS Financial Services, Inc., f/k/a UBS PaineWebber, Inc.  
Daron D. Fullwood

Hearing Site: Washington, DC

---

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimants, Todd C. Alston and Grace Cole-Alston, hereinafter collectively referred to as "Claimants", were represented by W. Scott Greco, Esq., Greco & Greco, P.C., McLean, Virginia.

Respondents, UBS Financial Services, Inc., f/k/a UBS PaineWebber, Inc. ("UBS") was represented by Richard L. Martens, Esq., Boose Casey Ciklin Lubitz Martens McBane & O'Connell, West Palm Beach, Florida.

Respondent Daron D. Fullwood ("Fullwood") was represented by Richard J. Magid, Esq., Whiteford, Taylor & Preston, L.L.P., Baltimore, Maryland.

CASE INFORMATION

Statement of Claim filed on August 23, 2002.

Claimant Todd C. Alston signed the Uniform Submission Agreement on August 23, 2002.

Claimant Grace Cole-Alston signed the Uniform Submission Agreement on August 23, 2002.

Statement of Answer filed by Respondent UBS on November 12, 2002.

A representative of Respondent UBS executed the Uniform Submission Agreement on November 11, 2002.

Statement of Answer filed by Respondent Fullwood on November 7, 2002.

Respondent Fullwood signed the Uniform Submission Agreement on September 11, 2002.

CASE SUMMARY

Claimants asserted the following causes of action, among others: breach of fiduciary duty, suitability, negligence, misrepresentations, and failure to supervise. The causes of action relate to the exercise of AOL stock options.

Unless specifically admitted in its Answer, Respondent UBS denied the allegations made in the Statement of Claim and asserted the following defenses, among others: the Statement of Claim fails to state a claim upon which relief may be granted; the Statement of Claim is barred by the applicable statutes of limitations and by the doctrine of laches; Claimants' causes of action are barred by the doctrines of ratification, waiver and estoppel; and failure to mitigate damages.

Unless specifically admitted in his Answer, Respondent Fullwood denied the allegations made in the Statement of Claim.

### RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$ 3,539,131.00
Punitive Damages	\$10,000,000.00
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified
Lost opportunity costs	\$ 400,000.00

Respondent UBS in its Statement of Answer requested that the claims be dismissed in their entirety and that it be awarded costs and attorneys' fees.

### OTHER ISSUES CONSIDERED AND DECIDED

At the hearing Respondent Fullwood requested that the Arbitration Panel (the "Panel") recommend the expungement of all references to this matter from his records maintained by NASD Central Registration Depository ("CRD").

The parties have 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, 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. All claims against Respondents UBS and Fullwood are denied in their entirety;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Fullwood's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Fullwood must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement;

3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and,
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

#### 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	= \$ 600.00
--------------------------	-------------

##### Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, UBS is a party

Member surcharge	= \$ 3,750.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,500.00
Total Member Fees	= \$ 10,000.00

##### Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

December 2-5, 2003 adjournment by Respondent Fullwood	fee waived
---	------------

##### Forum Fees and Assessments

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

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: October 3, 2003 1 session	

Two (2) Pre-hearing sessions with Panel @ \$1,200.00	= \$ 2,400.00
Pre-hearing conferences: March 28, 2003 1 session	
January 26, 2004 1 session	

Twelve (12) Hearing sessions @ \$1,200.00	= \$14,400.00
Hearing Dates: June 14, 2004 2 sessions	
June 15, 2004 2 sessions	
June 16, 2004 2 sessions	

June 17, 2004	2 sessions	
June 18, 2004	1 session	
July 13, 2004	3 sessions	
Total Forum Fees		= \$17,250.00

1. The Panel has assessed \$7,762.50 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$7,762.50 of the forum fees to Respondent UBS.
3. The Panel has assessed \$1,725.00 of the forum fees to Respondent Fullwood.

#### FEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 600.00
<u>Forum Fees</u>	<u>= \$ 7,762.50</u>
Total Fees	= \$ 8,362.50
<u>Less payments</u>	<u>= \$ 1,800.00</u>
Balance Due NASD Dispute Resolution	= \$ 6,562.50
2. Respondent UBS is assessed and shall pay the following fees:

Member Fees	= \$10,000.00
<u>Forum Fees</u>	<u>= \$ 7,762.50</u>
Total Fees	= \$17,762.50
<u>Less payments</u>	<u>= \$10,000.00</u>
Balance Due NASD Dispute Resolution	= \$ 7,762.50
3. Respondent Fullwood is assessed and shall pay the following fees:

<u>Forum Fees</u>	<u>= \$ 1,725.00</u>
Total Fees	= \$ 1,725.00
<u>Less payments</u>	<u>= \$ 00.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,725.00

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

#### ARBITRATION PANEL

James M. Johnstone, Esq.	-	Public Arbitrator, Presiding Chairperson
Arnold S. Tesh	-	Public Arbitrator, Panelist
Phillip R. Clark	-	Non-Public Arbitrator, Panelist

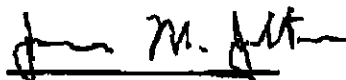
08/02/2004 09:52 FAX 202 728 8082

NASD DISPUTE RESOLUTION

008/008

NASD Dispute Resolution  
Arbitration No02-04979  
Award Page 5

Concurring Arbitrators' Signatures



James M. Johnstone, Esq  
Public Arbitrator, Presiding Chairperson

8/4/04

Signature Date

Arnold S. Tesh  
Public Arbitrator, Panelist

Signature Date

Phillip R. Clark  
Non-Public Arbitrator, Panelist

Signature Date

8/9/04  
Date of Service (For NASD Dispute Resolution office use only)

le

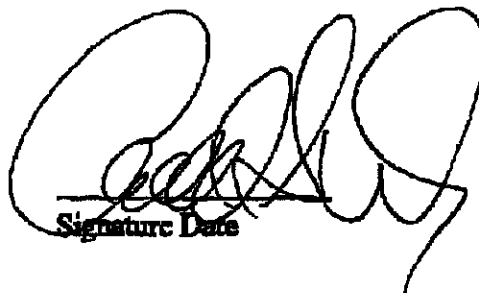
NASD Dispute Resolution  
Arbitration No02-04979  
Award Page 5

Concurring Arbitrators' Signatures

\_\_\_\_\_  
James M. Johnstone, Esq  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Arnold S. Tesh  
Public Arbitrator, Panelist

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

\_\_\_\_\_  
Phillip R. Clark  
Non-Public Arbitrator, Panelist

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

8/9/04

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

NASD Dispute Resolution  
Arbitration No02-04979  
Award Page 3

Concurring Arbitrators' Signatures

James M. Johnstone, Esq  
Public Arbitrator, Presiding Chairperson

Signature Date

Arnold S. Tesh  
Public Arbitrator, Panelist

Signature Date

Phillip R. Clark  
Phillip R. Clark  
Non-Public Arbitrator, Panelist

8/2/2004  
Signature Date

8/9/04

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