

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Harry Webb and Mary Webb (Claimants) v. UBS PaineWebber, Inc., Sage, Ruttly & Co., Joseph R. Tobin, Douglas Parker, and James Burke (Respondents)

Case Number: 02-05012

Hearing Site: Buffalo, New York

Nature of the Dispute: Customers vs. Members and Associated Persons.

REPRESENTATION OF PARTIES

Claimants Harry Webb ("H. Webb") and Mary Webb ("M. Webb") hereinafter collectively referred to as "Claimants": Donald G. McGrath, Esq., McGrath & Polvino, PLLC, Williamsville, NY.

Respondent UBS PaineWebber, Inc., ("UBS"): Sandra D. Grannum, Esq., Davidson & Grannum, LLP, Northvale, NJ. Previously represented by Vincent Oliva, Esq., UBS PaineWebber, Inc., New York, NY.

Respondents Sage, Ruttly & Co., ("Sage"), Joseph Tobin ("Tobin"), Douglas Parker ("Parker"), and James Burke ("Burke"): Laurie Styka Bloom, Esq. and James Weller, Esq., Nixon Peabody, LLP, Buffalo, NY.

CASE INFORMATION

Statement of Claim filed on or about: August 22, 2002.

H. Webb signed the Uniform Submission Agreement: April 18, 2002.

M. Webb signed the Uniform Submission Agreement: April 18, 2002.

Statement of Answer filed by UBS on or about: February 14, 2003.

UBS signed the Uniform Submission Agreement.

Joint Statement of Answer filed by Sage, Tobin, Parker, and Burke on or about: February 5, 2003.

Sage did not sign a Uniform Submission Agreement.

Tobin did not sign a Uniform Submission Agreement.

Parker did not sign a Uniform Submission Agreement.

Burke did not sign a Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: excessive trading; unauthorized trading; unsuitability; misrepresentation; omission of fact; failure to follow instructions; breach of contract; breach of fiduciary duty; violations of federal and state securities laws, violations of the State of New York's consumer protection laws; violations of rules

and regulations of NASD and various exchanges; and failure to supervise. The causes of action relate to shares of Global Crossing, Nortel Networks, Lucent, Verizon, MCI Worldcom, T/R Systems, Cypress Semi, Stratos Lightwave, Dense Pac Micro, Kulicke & Soffa, Sandisk, and Three Five Systems.

Unless specifically admitted in its Answer, UBS denied the allegations of wrong doing set forth in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in their Answer, Sage, Tobin, Parker, and Burke denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested damages in the amount of \$901,934.65, plus interest; excessive commissions; punitive damages; costs; expenses and disbursements; reasonable attorneys' fees; and such other and further relief as the Panel deems just and proper.

Respondent UBS requested that the Statement of Claim be dismissed in its entirety with prejudice; that fees and costs be awarded to Respondents; and such other relief as the Arbitration Panel deems appropriate.

Respondents Sage, Tobin, Parker, and Burke requested that the claims against them be dismissed, or in the alternative denied in their entirety; that all forum fees be awarded against Claimants; that they be awarded costs incurred in responding to this claim; that complaints of Claimants be expunged from the CRD records of them; and that the Panel grant other or further relief as it deems just and proper under the circumstances.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Sage, Tobin, Parker, and Burke did not file with NASD Dispute Resolution properly executed submission agreements but are required to submit to arbitration pursuant to the Code and, having answered the claim are bound by the determination of the Panel on all issues submitted.

By letter dated December 10, 2003, NASD Dispute Resolution was notified that the above captioned arbitration against Respondents UBS PaineWebber, Inc. and Sage Ruddy & Co. were dismissed with prejudice.

The parties have agreed that Respondents Joseph Tobin, Douglas Parker, and James Burke have been dismissed from this arbitration with prejudice and Joseph Tobin, Douglas Parker, and James Burke request that their CRD records be expunged.

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

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written

stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Joseph Tobin'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 Joseph Tobin must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Douglas Parker'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 Douglas Parker must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent James Burke'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 James Burke must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
4. Any and all relief not specifically addressed herein, including punitive damages, is denied.

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	= \$ 375.00
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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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, UBS PaineWebber, Inc. and Sage, Rutty & Co., Inc. are parties.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

November 11 and 12, 2003, adjournment requested by all parties	= \$1,200.00
Claimants' share	= \$600.00
Respondents' share	= \$600.00 jointly and severally

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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:

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

Three (3) Pre-hearing conference sessions with the Panel @ \$1,200.00 = \$3,600.00
Pre-hearing conferences: June 25, 2003 1 session
November 12, 2003 1 session
September 28, 2006 1 session

Total Forum Fees = \$4,050.00

1. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure, Claimants were assessed \$475.00 of the forum fees.
2. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure, Respondent UBS was assessed \$475.00 of the forum fees.
3. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure, Respondent Sage was assessed \$475.00 of the forum fees.
4. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure, Respondent Tobin was assessed \$475.00 of the forum fees.
5. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure, Respondent Parker was assessed \$475.00 of the forum fees.
6. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure, Respondent Burke was assessed \$475.00 of the forum fees.
7. Per agreement of the parties, Sage, Tobin, Parker and Burke, jointly and severally, will bear the forum fees for the September 28, 2006 conference.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Adjournment Fee	= \$ 600.00
Forum Fees	= \$ 600.00
Total Fees	= \$1,575.00
Less payments	= \$1,575.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Pursuant to Rule 10332(f) of the Code of Arbitration Procedure, NASD is retaining the total amount of the hearing session deposited by the Claimants because this office was notified by the parties that they settled or withdrew this matter within eight business days of the first scheduled hearing session.

2. UBS is solely liable for:

Member Fees	= \$7,000.00
Forum Fees	= \$ 475.00
Total Fees	= \$7,475.00

<u>Less payments</u>	= \$7,475.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Sage is solely liable for:

Member Fees	= \$7,000.00
<u>Forum Fees</u>	= \$ 475.00
Total Fees	= \$7,475.00
<u>Less payments</u>	= \$7,475.00
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Sage, Tobin, Parker and Burke are jointly and severally liable for:

<u>Forum Fees</u>	= \$1,200.00
Total Fees	= \$1,200.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,200.00

5. Respondents are jointly and severally liable for:

<u>Adjournment Fees</u>	= \$ 600.00
Total Fees	= \$ 600.00
<u>Less payments</u>	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

6. Respondent Tobin is solely liable for:

<u>Forum Fees</u>	= \$ 475.00
Total Fees	= \$ 475.00
<u>Less payments</u>	= \$ 475.00
Balance Due NASD Dispute Resolution	= \$ 0.00

7. Respondent Parker is solely liable for:

<u>Forum Fees</u>	= \$ 475.00
Total Fees	= \$ 475.00
<u>Less payments</u>	= \$ 475.00
Balance Due NASD Dispute Resolution	= \$ 0.00

8. Respondent Burke is solely liable for:

<u>Forum Fees</u>	= \$ 475.00
Total Fees	= \$ 475.00
<u>Less payments</u>	= \$ 475.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

F. Harris Nichols, Esq.	-	Public Arbitrator, Presiding Chairperson
Chet Robie, Ph.D.	-	Public Arbitrator
Kelly M. Lonergan	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

F. Harris Nichols

F. Harris Nichols, Esq.
Public Arbitrator, Presiding Chairperson

11/7/06
Signature Date

Chet Robie, Ph.D.
Public Arbitrator

Signature Date

Kelly M. Lonergan
Non-Public Arbitrator

Signature Date

November 9, 2006

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

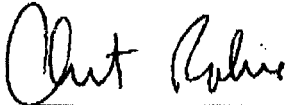
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Chet Robie, Ph.D.	-	Public Arbitrator
Kelly M. Lonergan	-	Non-Public Arbitrator

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F. Harris Nichols, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Chet Robie, Ph.D.
Public Arbitrator

Nov. 7 2006
Signature Date

Kelly M. Lonergan
Non-Public Arbitrator

Signature Date

November 9, 2006
Date of Service (For NASD Dispute Resolution use only)

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F. Harris Nichols, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Chet Robie, Ph.D.
Public Arbitrator

Signature Date


Kelly M. Loneragan
Non-Public Arbitrator

11/7/06
Signature Date

November 9, 2006

Date of Service (For NASD Dispute Resolution use only)