

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 02-05813

Mountain States Mutual Casualty Company

Name of the Respondent

Hearing Site: Albuquerque, New Mexico

UBS Financial Services Inc.

NATURE OF DISPUTE

Customer vs. Member Firm

REPRESENTATION OF PARTIES

John J. Kelly, Esq. of the law firm Modrall, Sperling, Roehl, Harris & Sisk, P.A. located in Albuquerque, New Mexico, represented Claimant, Mountain States Mutual Casualty Company, hereinafter referred to as "Claimant."

George M. Garvey, Esq. of the law firm Munger, Tolles & Olson, LLP located in Los Angeles, California, represented Respondent, UBS Financial Services, Inc., a/k/a "UBS PaineWebber Inc." hereinafter referred to as "Respondent."

CASE INFORMATION

Statement of Claim filed on September 30, 2002.

Claimant, Mountain States Mutual Casualty Company, signed the Uniform Submission Agreement on September 25, 2002.

Statement of Answer filed by Respondent, UBS Financial Services, Inc. on December 24, 2002.

Respondent, UBS Financial Services, Inc., signed the Uniform Submission Agreement on May 8, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: negligence, misrepresentations, omissions and suitability. The causes of action relate to the investment in a Large Cap Value stock portfolio, including stock in 31 companies, bearing Account No. BU-1064009 managed by Rorer Asset Management, LLC at the recommendation of PaineWebber, a/k/a UBS Financial Services.

Unless specifically admitted in its Answer, Respondent, UBS Financial Services, Inc., denied the allegations made in the Statement of Claim and asserted the following defenses:

1. The Statement of Claim fails to state facts sufficient to constitute a cause of action.
2. The Claimant knowingly and voluntarily assumed the risks associated with his investments.
3. The Claimant is estopped from asserting the matters asserted in the Statement of Claim.
4. The Claimant has waived any right he may have to assert the matters asserted in the Statement of Claim.
5. This claim is barred by the doctrine of laches.
6. The Claimant knowingly and voluntarily released Paine Webber from any liability relating to investments made by Rorer.
7. The Claimant ratified the transactions of which it complains.
8. The Claimant failed to mitigate damages.
9. The damages alleged in the Statement of Claim are not the proximate result of any conduct of the Respondent.
10. No basis for recovery of attorneys' fees or expert witness costs has been alleged.
11. Even if liability were assumed, any damages should be reduced by the amount by which a portfolio consistent with the Claimant's aggressive investment objective would have declined in value during the relevant period.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$2,000,000.00
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	unspecified

Respondent, UBS Financial Services Inc. requested that: the Claimant shall take nothing by reason of his claims; that PaineWebber be awarded its costs of defense, including without limitation all forum fees and other fees paid in connection with the arbitration; that forum fees and all other costs of NASD Dispute Resolution be assessed against Mountain States; and for such other and further relief as the arbitrators deem appropriate.

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, 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. Any and all claims asserted by Claimant, Mountain States Mutual Casualty Company, are denied.
2. Parties shall bear their own costs, including attorneys' fees, except as specified herein.
3. 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	= \$ 500.00
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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 firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, UBS Financial Services Inc. is a member firm and is assessed the following fees:

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00
Total fees	= \$ 8,550.00

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 sessions with Panel @ \$1,200.00	= \$ 2,400.00
Pre-hearing conferences: May 23, 2003	1 session
May 28, 2003	1 session

Ten (10) Hearing sessions @ \$1,200.00 = \$12,000.00

Hearing Dates: February 9, 2004 2 sessions
February 10, 2004 2 sessions
February 11, 2004 2 sessions
February 12, 2004 2 sessions
February 13, 2004 2 sessions

Total Forum Fees = \$14,400.00

1. The Panel has assessed 50% of the total forum fees in the amount of \$7,200.00 solely to Claimant, Mountain States Mutual Casualty Company.
2. The Panel has assessed 50% of the total forum fees in the amount of \$7,200.00 solely to Respondent, UBS Financial Services Inc.

Fee Summary

1. Claimant, Mountain States Mutual Casualty Company, is solely liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 7,200.00
Total Fees	= \$ 7,700.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 6,000.00

2. Respondent, UBS Financial Services Inc. is solely liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 7,200.00
Total Fees	= \$15,750.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 7,200.00

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

ARBITRATION PANEL

Edward Thomas Leech	-	Public Arbitrator, Presiding Chairperson
James J. Ashe	-	Public Arbitrator
David G. Burlingame, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Edward Thomas Leech
Public Arbitrator, Presiding Chairperson

2/25/04
Signature Date

James J. Ashe
Public Arbitrator

2/25/04
Signature Date

David G. Burlingame, Esq.
Non-Public Arbitrator

2/24/04
Signature Date

2/27/04
Date of Service (For NASD Dispute Resolution office use only)

ARBITRATION PANEL

Edward Thomas Leech
James J. Ashe
David G. Burlingame, Esq.

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

Concurring Arbitrators' Signatures

Edward T. Leech

Edward Thomas Leech
Public Arbitrator, Presiding Chairperson

2-25-04

Signature Date

James J. Ashe
Public Arbitrator

Signature Date

David G. Burlingame, Esq.
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

Co-Signing Arbitrators' Signatures

Edward Thomas Leech
Public Arbitrator, Presiding Chairperson

Signature Date


James J. Ashe
Public Arbitrator

2/25/04
Signature Date

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