

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Helen Jean Disney
Helen Jean Disney IRA

Case Number: 02-06359

Names of the Respondents
UBS PaineWebber, Inc.
Richard Thomas Curran
Dennis Peacock, Jr.

Hearing Site: Baltimore, MD

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

REPRESENTATION OF PARTIES

Claimant, Helen Jean Disney, individually and on behalf of her IRA, hereinafter referred to as "Claimant", was represented by Daniel J. Donovan, Esq., Donovan & Rainie, LLC, Baltimore, Maryland.

Respondent UBS PaineWebber, Inc. ("PaineWebber"), Richard Thomas Curran ("Curran"), and Dennis Peacock, Jr. ("Peacock"), hereinafter collectively referred to as "Respondents", were represented by Tracey Salmon-Smith, Esq., Associate General Counsel, UBS PaineWebber, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on October 22, 2002.

Claimant signed the Uniform Submission Agreement on October 16, 2002.

Statement of Answer filed by Respondents on January 30, 2003.

Respondent Curran signed the Uniform Submission Agreement on March 6, 2003.

Respondent Peacock signed the Uniform Submission Agreement on February 5, 2003.

A representative of Respondent PaineWebber executed the Uniform Submission Agreement on January 29, 2003.

Amended Statement of Claim filed on December 31, 2004.

CASE SUMMARY

In her Statement of Claim and Amended Statement of Claim, claimant asserted the following causes of action, among others: federal securities fraud, common law fraud, violation of Maryland Securities Act, breach of fiduciary duty, negligence, and breach of contract. The causes of action relate to the purchase of shares in MFS Emerging Growth Fund B, MFS Mass Investors Growth Stock Fund B, MFS Strategic Growth Fund Class C, and MFS Strategic Growth Fund Class C.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: statutes of limitations; Claimant's claims are barred by the doctrines of laches, waiver, and estoppel; assumption of risk. and failure to mitigate damages.

RELIEF REQUESTED

Claimant in her Amended Statement of Claim requested:

Compensatory Damages	\$275,965.59
Punitive Damages	\$551,931.18
Attorneys' Fees	amount unspecified

Respondents in their Statement of Answer requested that the Statement of Claim be dismissed in its entirety and that all references to this matter be expunged from the records of Respondents Curran and Peacock maintained by the NASD Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

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 Arbitration Panel (the "Panel") has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents PaineWebber and Peacock are jointly and severally liable to and shall pay to Claimant compensatory damages in the amount of \$54,240.81;
2. Respondent Curran is liable to and shall pay to Claimant compensatory damages in the amount of \$1.00;
3. All claims for punitive damages and attorneys' fees are denied in their entirety; and
4. Any and all relief not specifically addressed herein 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 = \$ 375.00

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, PaineWebber is a party.

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 4,000.00</u>
Total Member Fees	= \$ 7,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

February 24-26, 2004 adjournment by Respondents	= \$ 1,125.00
November 17-19, 2004 adjournment by all parties	= \$ 1,125.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the 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 Panel @ \$ 1,200.00	= \$ 1,200.00
Pre-hearing conference: June 11, 2003 1 session	

Six (6) Hearing sessions @ \$1,200.00	= \$ 7,200.00
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Hearing Dates:	May 2, 2005 2 sessions
	May 3, 2005 2 sessions
	<u>May 11, 2005 2 sessions</u>

Total Forum Fees	= \$ 8,400.00
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1. The Panel has assessed \$4,200.00 of the forum fees to Claimant

2. The Panel has assessed \$4,200.00 of the forum fees jointly and severally to Respondents.

EEE SUMMARY

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

Initial Filing Fee	= \$ 375.00
Adjournment Fee	= \$ 562.50
<u>Forum Fees</u>	<u>= \$ 4,200.00</u>
Total Fees	= \$ 5,137.50
<u>Less payments</u>	<u>= \$ 2,025.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,112.50

2. Respondent PaineWebber is assessed and shall pay the following fees:

<u>Member Fees</u>	<u>= \$ 7,000.00</u>
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Total Fees	= \$ 7,000.00
<u>Less payments</u>	<u>= \$ 7,000.00</u>
Balance Due NASD Dispute Resolution	= \$ 00.00

4. Respondents are jointly and severally assessed and shall pay the following fees:

Forum Fees	= \$ 4,200.00
<u>Adjournment Fee</u>	<u>= \$ 1,687.50</u>
Total Fees	= \$ 5,887.50
<u>Less payments</u>	<u>= \$ 2,212.50</u>
Balance Due NASD Dispute Resolution	= \$ 3,675.00


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

ARBITRATION PANEL

Alan S. Carmel, Esq.	- Public Arbitrator, Presiding Chairperson
Jeffrey M. Cohen CPA	- Public Arbitrator, Panelist
Oscar W. Carlson, Jr.	- Non-Public Arbitrator, Panelist

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Concurring Arbitrators' Signatures


Alan S. Carmel, Esq.
Public Arbitrator, Presiding Chairperson

5/12/05
Signature Date

Jeffrey M. Cohen CPA
Public Arbitrator, Panelist

Signature Date

Oscar W. Carlson, Jr.
Non-Public Arbitrator, Panelist

Signature Date

5/24/05
Date of Service (For NASD Dispute Resolution office use only)

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Public Arbitrator, Presiding Chairperson

Signature DateJeffrey M. Cohen CPA

Public Arbitrator, Panelist

Signature DateOscar W. Carlson, Jr.Oscar W. Carlson, Jr.
Non-Public Arbitrator, Panelist5-20-05Signature Date5/24/05Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Alan S. Carmel, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Jeffrey M. Cohen
Jeffrey M. Cohen CPA
Public Arbitrator, Panelist

5/24/05
Signature Date

Oscar W. Carlson, Jr.
Non-Public Arbitrator, Panelist

Signature Date

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