

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Ralph J. Sando v. PaineWebber, Inc. n/k/a/ UBS Financial Services, Inc.

Case Number: 02-06817

Hearing Site: Cleveland, Ohio

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**REPRESENTATION OF PARTIES**

Claimant Ralph J. Sando ("Sando") hereinafter referred to as "Claimant": Douglas A. Kutsko, Esq., Brian P. Biggins & Associates, Rocky River, OH.

Respondent PaineWebber n/k/a/ UBS Financial Services, Inc. ("UBS") hereinafter referred to as "Respondent": John E. Jenkins, Esq., UBS, Weehawken, NJ..

**CASE INFORMATION**

Statement of Claim filed on or about: November 6, 2002.  
Claimant signed the Uniform Submission Agreement.

Statement of Answer filed by Respondent on or about: February 6, 2003.  
Respondent signed the Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: negligence, breach of contract, breach of fiduciary duty, respondeat superior, failure to supervise, suitability, unauthorized trading, and misrepresentation/omission.  
Claimant's claims involved shares of SDL.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested compensatory damages in excess of \$72,000.00, plus punitive damages, attorney fees, costs and any other remedy the panel deems just and equitable.

Respondent requested that the Statement of Claim be dismissed in its entirety.

### **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 Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for and shall pay to Claimant compensatory damages in the amount of \$65,475.52 plus interest at the rate of 10% per annum commencing from the date of the award until the award is paid.
2. 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	= \$225.00
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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, PaineWebber n/k/a UBS Financial Services, Inc. is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

#### **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:

One (1) Pre-hearing session with Panel @ \$750.00	= \$ 750.00
Pre-hearing conference: May 27, 2003	1 session

Five (5) Hearing sessions @ \$750.00		= \$3,750.00
Hearing Dates:	September 24, 2003	2 sessions
	September 25, 2003	2 sessions
	September 26, 2003	1 session
<hr/> Total Forum Fees		= \$4,500.00

1. The Panel has assessed \$4,500.00 of the forum fees against Respondent UBS.

**Fee Summary**

1. Claimant is solely liable for:	
<u>Initial Filing Fee</u>	= \$ 225.00
<u>Total Fees</u>	= \$ 225.00
<u>Less payments</u>	= \$ 975.00
Refund Due Claimant	= \$ 750.00
2. Respondent is solely liable for:	
Member Fees	= \$ 3,550.00
<u>Forum Fees</u>	= \$ 4,500.00
<u>Total Fees</u>	= \$ 8,050.00
<u>Less payments</u>	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 4,500.00

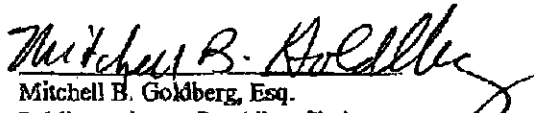
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.
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ARBITRATION PANEL

Mitchell B. Goldberg, Esq. - Public Arbitrator, Presiding Chair  
Frank C. Fogl, Jr., Esq. - Public Arbitrator  
Elayne S. Mitchell, CFP - Non-Public Arbitrator

Concurring Arbitrators' Signatures

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.

  
\_\_\_\_\_  
Mitchell B. Goldberg, Esq.  
Public Arbitrator Presiding Chairperson

10/15/03  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Frank C. Fogl, Jr., Esq.  
Public Arbitrator

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

\_\_\_\_\_  
Elayne S. Mitchell, CFP  
Non-Public Arbitrator

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

October 15, 2003  
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)

NASD Dispute Resolution  
Arbitration No. 02-06817  
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**ARBITRATION PANEL**

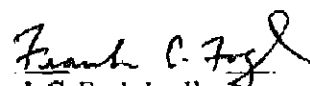
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Public Arbitrator Presiding Chairperson

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Signature Date

  
Frank C. Fogl, Jr., Esq.  
Public Arbitrator

10/14/2003  
Signature Date

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Non-Public Arbitrator

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Signature Date

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Frank C. Fogl, Jr., Esq.  
Public Arbitrator

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Signature Date

*Elayne S. Mitchell*  
Elayne S. Mitchell, CFP  
Non-Public Arbitrator

*10/10/03*  
Signature Date

October 15, 2003  
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