

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

Gerald J. Banfe, Sr. and Sharon M. Banfe

Case Number: 02-06821

Name of the Respondent

UBS Financial Services, Inc.

Hearing Site: Philadelphia, PA

Nature of the Dispute: Customers vs. Member.

REPRESENTATION OF PARTIES

Claimants, Gerald H. Banfe, Sr. and Sharon M. Banfe, hereinafter collectively referred to as "Claimants", were represented by Carlo Scaramella, Esq., Cureton Caplan, Delran, New Jersey.

Respondent, UBS Financial Services, Inc., hereinafter referred to as "Respondent", was represented by Heather A. Wright, Esq., UBS PaineWebber, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on November 11, 2002.

Claimants signed the Uniform Submission Agreement on November 8, 2002.

Statement of Answer filed by Respondent on January 23, 2003.

A representative of Respondent signed the Uniform Submission Agreement on January 23, 2003.

CASE SUMMARY

Claimants asserted the following causes of action, among others: improper and unauthorized trading, breach of fiduciary duty, misrepresentation, breach of contract, negligence, and failure to supervise. The causes of action relate to the improper commission fees charged to Claimants for the purchase and/or sale of unspecified securities, and failure to provide information upon their request.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim upon which relief may be granted; Claimants' claims are barred by the doctrines of ratification, waiver and estoppel; Respondent did not act with the requisite *scienter*; there is no independent cause of action for violation of NYSE or NASD rules; all transactions were authorized; Respondents acted in good faith; failure to mitigate damages; any losses were not proximately caused by Respondent; and adequate supervision was utilized.

RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$ 25,000
Punitive Damages	amount unspecified
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondent in its Statement of Answer requested that the matter be dismissed and that any other such relief that is just and equitable be awarded to Respondent.

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, and the post-hearing submissions, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable to and shall pay to Claimants compensatory damages in the amount of \$ 15,332.79;
2. Respondent is liable to and shall pay to Claimants \$ 1,967.17 in interest, representing 7% interest calculated from April 3, 2002 and accruing until February 3, 2004;
3. Respondent shall pay to Claimants \$ 20,509.06 in attorneys' fees based on the Uniform Securities Act Section 410;
4. Claimants' claims for punitive damages are denied in their entirety;
5. The parties shall bear their respective costs, except as Fees are specifically addressed below; and,
6. 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 = \$ 125

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, Respondent is a party.

Member surcharge = \$ 425

Total Member Fees = \$ 425

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

August 18 – 19, 2003, adjournment by Claimants = \$ 450

December 4 – 5, 2003, adjournment by Respondent = \$ 450

Forum Fees and Assessments

The Arbitrator 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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$ 450 = \$ 900

Pre-hearing conferences: June 16, 2003 1 session
July 28, 2003 1 session

Three (3) Hearing sessions @ \$ 450 = \$ 1,350

Hearing Dates: December 17, 2003 1 session
January 6, 2004 2 sessions

Total Forum Fees = \$ 2,250

1. The Arbitrator has assessed \$ 1,125 of the forum fees to Claimants.

2. The Arbitrator has assessed \$ 1,125 of the forum fees to Respondent.

EEE SUMMARY

1. Claimants are assessed and shall pay the following fees:

Initial Filing Fee = \$ 125

Adjournment Fee = \$ 450

Forum Fees = \$ 1,125

Total Fees = \$ 1,700

Less payments = \$ 625

Balance Due NASD Dispute Resolution = \$ 1,075

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

Member Fees = \$ 425

Adjournment Fee = \$ 450

Forum Fees	= \$ 1,125
Total Fees	= \$ 2,000
Less payments	= \$ 425
Balance Due NASD Dispute Resolution	= \$ 1,575

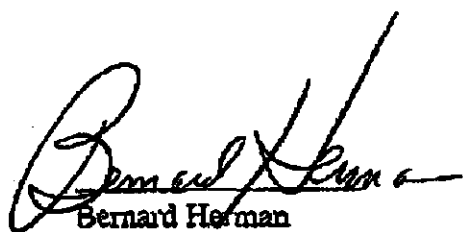
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATOR

Bernard Herman

- Public Arbitrator, Sole Arbitrator

Arbitrator's Signature



Bernard Herman
Public Arbitrator, Sole Arbitrator

Feb 2, 2004
Signature | Date

February 3, 2004
Date of Service (For NASD Dispute Resolution office use only)