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

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In the Matter of the Arbitration Between:

Names of the Claimants

Harry Klauber IRA Rollover, Rittenhouse Financial Services  
Harry Klauber IRA Rollover, Roger Engemann & Assoc. Mgmt.  
Harry Klauber IRA Rollover, Mitchell Hutchins Asset Mgmt.

Case Number: 02-06853

Names of the Respondents

UBS Financial Services Inc.

Hearing Site: Boca Raton, FL

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Harry Klauber IRA Rollover, Rittenhouse Financial Services ("Rittenhouse"), Harry Klauber IRA Rollover, Roger Engemann & Assoc. Mgmt. ("Engemann") and Harry Klauber IRA Rollover, Mitchell Hutchins Asset Mgmt. ("Hutchins") hereinafter referred to as "Claimants": Wayne Schwartz, Esq., Blum, Silver and Schwartz, LLP, Plantation, Florida 33324.

For UBS Financial Services Inc. ("UBS"), hereinafter referred to as "Respondent": Richard L. Martens, Esq. and Matthew N. Thibaut, Esq., Boose, Casey, Ciklin, Lubitz, Martens, McBane & O'Connell, West Palm Beach, Florida 33401.

**CASE INFORMATION**

Statement of Claim filed on or about: November 12, 2002.

Claimants signed the Uniform Submission Agreement: October 30, 2002.

Amended Statement of Claim filed on or about: January 7, 2003.

Statement of Answer to Amended Statement of Claim filed by Respondent on or about: March 12, 2003.

Respondent signed the Uniform Submission Agreement: April 4, 2003.

**CASE SUMMARY**

Claimants asserted the following causes of action: unsuitability, negligence, breach of contract, breach of fiduciary duty, respondeat superior, violations of NYSE and NASD rules, failure to supervise, and omissions/misrepresentation. The causes of action relate to the purchase and sale of shares of stock in AOL, Cisco Systems, Citrix Systems, Comcast Corp., Cox Communications, Infonet Services, Corp., Intel Corp., JDS Uniphase Corp., Lucent Technologies, Motorola, Winstar Communications, Nextel Communications, as well as other unspecified shares of stock.

Respondent denied the allegations of wrongdoing set forth in the Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested compensatory damages for \$286,000.00, plus interest at the legal rate from the date of purchase or reasonable market return, rescission, reasonable attorney's fees, punitive damages, the costs of this proceeding and for such other relief as is just and proper.

Respondent requested dismissal of the Statement of Claim in its entirety.

### **OTHER ISSUES CONSIDERED AND DECIDED**

This matter involved disputed claims and was settled by the parties prior to the submission of any evidence by any party, and prior to the final arbitration hearing.

On or about August 23, 2004, Claimants' counsel advised NASD Dispute Resolution that the parties had settled the arbitration proceeding and requested that NASD keep the file open to allow Claimants and Respondent to submit a proposed Stipulated Award.

On or about October 12, 2004, the parties submitted a proposed Stipulated Award.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

### **AWARD**

After considering the pleadings and the proposed Stipulated Award, the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

Claimants' withdrawal of claims against Respondent with prejudice is accepted  
and Respondent is dismissed from this matter.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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 = \$ 300.00

#### **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, Respondent UBS is a member firm and a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00
Total Member Fees	= \$5,200.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred during these proceedings.

#### **Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session.

No three-day cancellation fees were incurred during these proceedings.

#### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were incurred during these proceedings.

#### **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 session with the Panel @ \$1,125.00	= \$2,250.00
Pre-hearing conferences: July 25, 2003	1 session
September 4, 2003	1 session

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Total Forum Fees	= \$2,250.00
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The Panel has assessed \$1,125.00 of the forum fees jointly and severally to Claimants.

The Panel has assessed \$1,125.00 of the forum fees to Respondent.

#### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

**Fee Summary**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$1,125.00</u>
Total Fees	= \$1,425.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent UBS is solely liable for:

Member Fees	= \$5,200.00
<u>Forum Fees</u>	<u>= \$1,125.00</u>
Total Fees	= \$6,325.00
<u>Less payments</u>	<u>= \$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$1,125.00

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

**ARBITRATION PANEL**

Randy R. Freedman, Esq.	-	Public Arbitrator, Presiding Chairperson
Arnold I. Loew	-	Public Arbitrator
David A. Pracker	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Randy R. Freedman, Esq.  
Public Arbitrator, Presiding Chairperson

December 14, 2004  
Signature Date

/s/  
Arnold I. Loew  
Public Arbitrator

December 14, 2004  
Signature Date

/s/  
David A. Pracker  
Non-Public Arbitrator

December 23, 2004  
Signature Date

December 24, 2004  
Date of Service (For NASD Dispute Resolution office use only)

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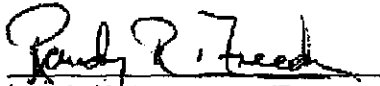
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Randy R. Freedman, Esq.  
Public Arbitrator, Presiding Chairperson

12/14/04  
Signature Date

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Public Arbitrator

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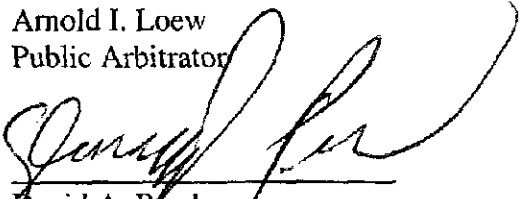
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