

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Carolyn C. Moore

Case Number: 02-06996

Name of the Respondents
UBS PaineWebber, Inc. n/k/a
UBS Financial Services, Inc.

Hearing Site: Washington, DC

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

Claimant, Carolyn C. Moore ("Claimant"), was represented by Mark M. Dumler, Esq., Parker, Dumler & Kiely LLP, Baltimore, Maryland.

Respondent, UBS PaineWebber, Inc. n/k/a UBS Financial Services, Inc. ("PaineWebber"), was represented by Vincent J. Oliva, Esq., UBS Financial Services, Inc., Weehawken, New Jersey.

CASE INFORMATION

Statement of Claim filed on November, 19, 2002.

Claimant signed the Uniform Submission Agreement on November 14, 2002.

Statement of Answer filed by Respondent on June 12, 2003.

Vincent J. Oliva, Esq. signed the Uniform Submission Agreement on behalf of Respondent PaineWebber on June 12, 2003.

CASE SUMMARY

Claimant asserted the following causes of action, among others: negligence, breach of fiduciary duty; violation of Section 10(b) of the Securities Act of 1934; violation of SEC Rule 10(b)-5, Section 12(2) of the Securities Act of 1933 and Section 11-310 *et seq.* of the Maryland Securities Act; failure to supervise; and *respondeat superior*. The causes of action relate to the purchase of mutual funds and stocks including IDEX JCC Growth Fund (A), SunAmerica Growth & Inc. Fund (B), State Street Rsch. Legacy Fund (B), Alliance Technology Fund (B), Amer.Skandia Janus Cap. Growth Fund (B), IDEX JCC Cap. Appreciation Fund (B), Nuveen Innovation Fund (B), Aim Charter (B), Aim Charter (B), Alliance Premier Growth Fund (B), MFS Research Fund (B), PW Tactical Allocation Fund (B), Verizon, and Oracle.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses, among others: the Statement of Claim fails to state a claim upon which relief may be granted; the claim is time barred by the doctrine of laches; the causes of action are barred by the doctrines of ratification, waiver, and estoppel;

failure to mitigate damages; and assumption of risk.

RELIEF REQUESTED

Claimant in her Statement of Claim requested:

Compensatory Damages	\$120,000.00
Punitive Damages	amount unspecified
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondent in its Statement of Answer requested that the Statement of Claim be dismissed with prejudice in its entirety and that costs and expenses be assessed against Claimant.

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

1. Respondent PaineWebber is liable to and shall pay to Claimant compensatory damages in the amount of one hundred and eight thousand dollars and zero cents (\$108,000.00). This amount includes pre-award interest;
2. Respondent is liable to and shall pay to Claimant attorney's fees in the amount of thirty-five thousand dollars and zero cents (\$35,000.00). Authority for attorneys' fees is based on Maryland statute;
3. The parties shall bear their respective costs, except as Fees are specifically addressed below; and
4. Any and all relief not specifically addressed herein, including punitive damages 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 = \$ 300.00

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	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

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 a single arbitrator @ \$450.00 = \$ 450.00
Pre-hearing conference: April 2, 2004 1 session

Two (2) Pre-hearing sessions with Panel @ \$1,125.00 = \$2,250.00
Pre-hearing conferences: December 3, 2003 1 session
February 16, 2004 1 session

Four (4) Hearing sessions @ \$1,125.00 = \$4,500.00
Hearing Dates: April 5, 2004 2 sessions
April 6, 2004 2 sessions

Total Forum Fees = \$7,200.00

1. The Panel has assessed \$7,200.00 of the forum fees to Respondent PaineWebber.

FEE SUMMARY

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

<u>Initial Filing Fee</u>	<u>= \$ 300.00</u>
Total Fees	= \$ 300.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Refund Due to Claimant	= \$ 1,125.00

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

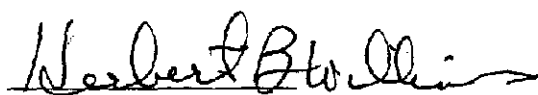
Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	<u>= \$ 7,200.00</u>
Total Fees	= \$12,400.00
<u>Less payments</u>	<u>= \$ 8,700.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,700.00

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

ARBITRATION PANEL

Herbert E. Williams	-	Public Arbitrator, Presiding Chairperson
Anthony J. Trenga, Esq.	-	Public Arbitrator, Panelist
Francis P. Galletti	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Herbert E. Williams

Public Arbitrator, Presiding Chairperson

4/21/04

Signature Date

Anthony J. Trenga, Esq.

Public Arbitrator, Panelist

Signature Date

Francis P. Galletti

Non-Public Arbitrator, Panelist

Signature Date

4/28/04

Date of Service (For NASD Dispute Resolution office use only)

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Herbert E. Williams
Public Arbitrator, Presiding Chairperson

Signature Date


Anthony J. Trenga, Esq.
Public Arbitrator, Panelist

April 19, 2004
Signature Date

Francis P. Galletti
Non-Public Arbitrator, Panelist

Signature Date

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