
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
William B. McCranie

Case Number: 02-07060

Names of the Respondents
UBS Financial Services, Inc. (f/k/a UBS PaineWebber, Inc.)
Janney Montgomery Scott, LLC
Michael Gomberg

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer v. Member and Associated Person.

REPRESENTATION OF PARTIES

For William B. McCranie, hereinafter referred to as "Claimant": Scott Silver, Esq., Law Offices of Darren C. Blum, P.A., Plantation, Florida.

For UBS Financial Services, Inc., f/k/a Paine Webber, Inc., ("UBS"): Richard L. Martens, Esq., Boose, Casey, Ciklin, Lubitz, Martens, McBane & O'Connell, West Palm Beach, Florida.

For Janney Montgomery Scott, LLC, ("Janney"): Ronald Schindler, Esq., Fowler, White and Burnett, P.A., Miami, Florida.

For Michael Gomberg, ("Gomberg"): Garry W. O' Donell, Esq., Adorno & Yoss, P.A., Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed on or about: November 20, 2002.

Claimant signed the Uniform Submission Agreement: December 15, 2002.

Statement of Answer filed by Respondent Janney on or about: February 24, 2003.

Statement of Answer filed by Respondent UBS on or about: March 11, 2003.

Statement of Answer filed by Respondent Gomberg on or about: April 3, 2003.

Respondent UBS signed the Uniform Submission Agreement: January 16, 2003.

Respondents Janney and Gomberg did not file an executed Uniform Submission Agreements.

CASE SUMMARY

Claimant asserted the following causes of action: 1) violation of industry rules; 2) breach of contract; 3) breach of fiduciary duties; 4) common law fraud; 5) negligence; and 6) negligent supervision. The causes of action relate to the purchase and sale of various stocks in Claimant's account, including, but not limited to: Applied Materials, Brocade Communications, Cienna Corp., Cisco Systems, EMC, Intel, JDS Uniphase, Linnear,

Maxim International, Microsoft, and Network Appliances.

Unless specifically admitted in their Answers, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$105,000.00, interest at the legal rate from the date of purchase or reasonable market return, rescission, reasonable attorneys' fees to be determined by a court of competent jurisdiction, punitive damages, costs, and any other relief deemed just and proper

Respondent Janney requested judgment dismissing the claim in its entirety, assessing fees and expenses against Claimant, awarding reasonable costs, expenses, attorneys' fees, and any other relief deemed just and proper.

Respondent UBS requested judgment dismissing the claim in its entirety and an award of attorneys' fees.

Respondent Gomberg requested judgment dismissing Claimant's claims and an award of attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Janney and Gomberg did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and are bound by the determinations of the Panel on all issues submitted.

On or about February 5, 2004, Claimant notified NASD Dispute Resolution that this matter had settled.

On or about May 7, 2004, Respondent Gomberg submitted a proposed Stipulated Award with a request that the Panel enter the Stipulated Award expunging all references to this matter from Respondent Gomberg's registration records maintained by the NASD Central Registration Depository ("CRD").

On or about June 14, 2004, the parties filed with NASD Dispute Resolution a Joint Stipulation to Dismiss and Expunge.

The parties have agreed that the Stipulated Award in this matter may be entered in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

AWARD

After considering the pleadings, the Stipulation to Dismiss and Expunge Registered Representatives' Records and the proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1) All claims against Respondents are dismissed, with prejudice.

- 2) The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Gomberg's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Gomberg must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

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 firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firms UBS and Janney are parties and are assessed the following member fees:

Member surcharge for Respondent UBS	= \$1,700.00
Member surcharge for Respondent Janney	= \$1,700.00
Pre-hearing process fee for Respondent UBS	= \$ 750.00
Pre-hearing process fee for Respondent Janney	= \$ 750.00
Hearing process fee for Respondent UBS	= \$2,750.00
Hearing process fee for Respondent Janney	= \$2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed in this matter.

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 this proceeding.

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 sessions with the Panel @ \$1,125.00	= \$2,250.00
Pre-hearing conferences: December 17, 2003	1 session
July 9, 2003	1 session

Total Forum Fees	= \$2,250.00
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The Panel has assessed \$562.50 of the forum fees to Claimant.

The Panel has assessed \$562.50 of the forum fees to Respondent UBS.

The Panel has assessed \$562.50 of the forum fees to Respondent Janney.

The Panel has assessed \$562.50 of the forum fees to Respondent Gomberg.

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 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 this proceeding.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 862.50
<u>Less payments</u>	= \$ 862.50
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent UBS is solely liable for:

Member Fees	= \$5,200.00
<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$5,762.50
<u>Less payments</u>	= \$5,762.50
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Janney is solely liable for:

Member Fees	= \$5,200.00
<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$5,762.50
<u>Less payments</u>	= \$5,670.00
Balance Due NASD Dispute Resolution	= \$ 92.50

Respondent Gomberg is solely liable for:

<u>Forum Fees</u>	= \$ 562.50
<u>Total Fees</u>	= \$ 562.50
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 562.50

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

ARBITRATION PANEL

Seth L. Finkel, Esq.	-	Public Arbitrator, Presiding Chairperson
Gary M. Landau, Esq.	-	Public Arbitrator
Michael J. Mazzafro, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Seth L. Finkel, Esq.
Public Arbitrator, Presiding Chairperson

August 6, 2004
Signature Date

/s/
Gary M. Landau, Esq.
Public Arbitrator

August 18, 2004
Signature Date

/s/
Michael J. Mazzafro, Esq.
Non-Public Arbitrator

August 9, 2004
Signature Date

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

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Respondent Gomberg is solely liable for:


Forum Fees	= \$ 562.50
Total Fees	= \$ 562.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 562.50

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ARBITRATION PANEL

Seth L. Finkel, Esq.	-	Public Arbitrator, Presiding Chairperson
Gary M. Landau, Esq.	-	Public Arbitrator
Michael J. Mazzafro, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Seth L. Finkel, Esq.
Public Arbitrator, Presiding Chairperson

8/6/04
Signature Date

Gary M. Landau, Esq.
Public Arbitrator

Signature Date

Michael J. Mazzafro, Esq.
Non-Public Arbitrator

Signature Date

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

Respondent Gomberg is solely liable for:

<u>Forum Fees</u>	= \$ 562.50
<u>Total Fees</u>	= \$ 562.50
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 562.50

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Seth L. Finkel, Esq.	-	Public Arbitrator, Presiding Chairperson
Gary M. Landau, Esq.	-	Public Arbitrator
Michael J. Mazzafo, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Seth L. Finkel, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Gary M. Landau, Esq.
Public Arbitrator

8/18/07
Signature Date

Michael J. Mazzafo, Esq.
Non-Public Arbitrator

Signature Date

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

Respondent Gomberg is solely liable for:

<u>Forum Fees</u>	= \$ 562.50
<u>Total Fees</u>	= \$ 562.50
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 562.50

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Gary M. Landau, Esq.	-	Public Arbitrator
Michael J. Mazzafro, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Seth L. Finkel, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Gary M. Landau, Esq.
Public Arbitrator

Signature Date



Michael J. Mazzafro, Esq.
Non-Public Arbitrator

8/9/04

Signature Date

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