
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
C. Charles Custer

Case Number: 02-07061

Names of the Respondents
UBS PaineWebber, Inc.
Michael Gomberg

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For C. Charles Custer, hereinafter referred to as "Claimant": Darren C. Blum, Esq. and Scott L. Silver, Esq., Blum, Silver & Schwartz, LLP, Plantation, Florida.

For Respondent UBS PaineWebber, Inc. ("PaineWebber"): Richard L. Martens, Esq. and Matthew N. Thibaut, Esq., Boose Casey Ciklin Lubitz Martens McBane & O'Connell, West Palm Beach, Florida.

For Respondent Michael Gomberg ("Gomberg"): Garry W. O'Donnell, 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: July 1, 2002.

Statement of Answer filed by Respondent PaineWebber on or about: March 6, 2003.

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

Respondent PaineWebber signed the Uniform Submission Agreement: December 23, 2002.

Respondent Gomberg signed the Uniform Submission Agreement: April 18, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: 1) violation of Florida Statutes, Chapter 517.301; 2) breach of contract; 3) breach of fiduciary duty; 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 Material, Network Appliances, Brocade Communications, Microsoft, Intel, Cienna Corp., EMC Corp., Linnear, Maxim International and JDS Uniphase.

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 \$361,701.00, interest at the legal rate from date of purchase or reasonable market return, rescission, reasonable attorney's fees (to be determined by a court of competent jurisdiction), punitive damages, costs and such other relief as the panel deemed just and proper.

Respondent PaineWebber requested that they be determined the prevailing party in this matter for an award of attorney's fees.

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

OTHER ISSUES CONSIDERED AND DECIDED

On January 21, 2004, the parties entered into a settlement agreement in which all parties agreed that this matter would be dismissed, with prejudice, as to all claims against Respondent Gomberg, that Claimant and Respondents remised, released and forever discharged each other from and against all claims and demands which they have or may have based upon any facts or circumstances that arose or existed on or prior to the date hereof, that Claimant shall discontinue the Action, with prejudice, and that a stipulated arbitration award expunging all references to the issues raised in the arbitration from Respondent Gomberg's NASD Central Registration Depository (the "CRD") record should be entered.

On or about February 6, 2004, the parties informed NASD Dispute Resolution that they had settled this matter.

On or about June 15, 2004, the parties submitted to NASD Dispute Resolution, an executed Joint Stipulation to Dismiss and Expunge the NASD CRD record of Respondent Gomberg with a proposed Stipulated Award. Thereafter, on or about July 15, 2004, the parties submitted to NASD Dispute Resolution a Motion to Re-open these proceedings in order to enter the Stipulated Award.

On or about August 24, 2004, the Panel issued an Order that granted the parties' Motion to Re-open this matter.

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

AWARD

After considering the pleadings and the Joint Stipulation to Dismiss and Expunge with 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 Central Registration Depository ("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
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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 is a party to this dispute and was a member of NASD at the time the following fees were assessed:

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

Adjournment Fees

No requests for adjournments were filed in this matter.

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 cancellation fees were assessed in this matter.

Injunctive Relief Fees

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:

One (1) Pre-hearing session with the Panel @ \$1,125.00	= \$1,125.00
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Pre-hearing conference: July 14, 2003	1 session
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Total Forum Fees	= \$1,125.00
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The Panel has assessed \$375.00 of the forum fees to Claimant.

The Panel has assessed \$375.00 of the forum fees to Respondent PaineWebber.

The Panel has assessed \$375.00 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
Forum Fees	= \$ 375.00
Total Fees	= \$ 675.00
Less payments	= \$ 675.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent PaineWebber is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 375.00
Total Fees	= \$ 5,575.00
Less payments	= \$ 5,575.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Gomberg is solely liable for:

Forum Fees	= \$ 375.00
Total Fees	= \$ 375.00
Less payments	= \$ 375.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

<i>Tamra H. Sheffman</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Robert A. Sauerberg</i>	-	<i>Public Arbitrator</i>
<i>David W. Newman</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Tamra H. Sheffman
Public Arbitrator, Presiding Chairperson

11/02/04
Signature Date

/s/

Robert A. Sauerberg
Public Arbitrator

10/28/04

Signature Date

/s/

David W. Newman
Non-Public Arbitrator

11/16/04

Signature Date

11/16/04

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

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Respondent Gomberg is solely liable for:

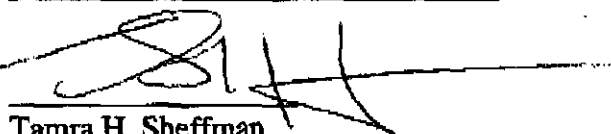
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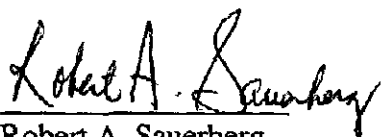
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Public Arbitrator, Presiding Chairperson

11/2/04
Signature Date



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Public Arbitrator

10/28/04

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Robert A. Sauerberg
Public Arbitrator

Signature Date



David W. Newman
Non-Public Arbitrator

11/16/04
Signature Date

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