

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Space Spinoffs, Inc. and Lawrence H. Kuznetz

and

Case Number: 02-07221
Hearing Site: Houston, Texas

Names of Respondents

UBS Financial Services, Inc.
John V. D'Oliver

NATURE OF DISPUTE

Customers v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Space Spinoffs, Inc. and Lawrence H. Kuznetz ("**Claimants**") were represented by Angela Bedford, Esq., Houston, Texas.

UBS Financial Services, Inc. ("**UBS**") John V. D'Oliver ("**D'Oliver**"), hereinafter collectively referred to as "**Respondents**," were represented by Charles W. Schwartz, Esq., and Heather H. Hegefelf, Esq., Skadden, Arps, Slate, Meacher & Flom, LLP, Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about November 27, 2002. The Submission Agreement of Claimants, Space Spinoffs, Inc. and Lawrence H. Kuznetz, was signed on or about November 23, 2002.

The Statement of Answer was filed jointly by Respondents, UBS Financial Services, Inc. and John V. D'Oliver, on or about February 13, 2003. The Submission Agreement of Respondent, UBS Financial Services, Inc., was signed on or about December 18, 2002.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract, negligence, failure to supervise, breach of fiduciary duty, churning, suitability and misrepresentation. The causes of action related to the recommendation and purchase of various unspecified securities. Claimants alleged that Respondents conducted trades in Claimants' accounts

at a rate which was excessive in light of Claimants' investment objectives. Claimants also alleged that Respondents recommended speculative stocks and did not use reasonable care when buying and selling securities for Claimants' accounts. Finally, Claimants alleged that Respondents made false representations regarding the performance of the securities in their accounts.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants failed to state a claim upon which relief can be granted; Claimants' claims are barred by the doctrines of ratification, waiver and estoppel; Claimants failed to mitigate their damages; Claimants knowingly assumed the costs and risks associated with their investments and were capable of assuming those risks; the damages that Claimants allegedly suffered have no causal relationship to any act committed by, or legally attributable to, Respondents; and to the extent Claimants' losses were caused by their own proportionate responsibility or negligence, their claims are barred in whole or in part.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$1,000,000.00
Punitive/Exemplary Damages	\$2,000,000.00
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondent, John V. D'Oliver, did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

Claimants moved to postpone the hearing because of the recent substitution of Walton Huff to the Panel. Claimants withdrew this motion.

Claimants moved the Panel to compel the appearance of Charles Rice, former office manager of Respondent. Respondent agreed to produce Mr. Rice via telephone and Claimants withdrew their motion.

Claimants moved to compel Harris Direct to produce under a subpoena previously issued. The Panel overruled this motion.

Both parties filed motions to sanction the other party. Both motions were withdrawn.

Respondent, John V. D'Oliver, filed a motion to expunge the complaint against him in this case from his CRD record. After hearing evidence and pursuant to Rule 2130, the arbitration panel has made the following affirmative findings of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

Unless NASD specifically waives this requirement in writing, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimants claims, each and all, are hereby dismissed with prejudice;
- 2.) Respondents, UBS Financial Services, Inc., and John V. D'Oliver, are jointly and severally liable for and shall pay to Claimants, Space Spinoffs, Inc. and Lawrence H. Kuznetz, the sum of \$500.00 in costs;
- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent, John V. D'Oliver's, registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent, John V. D'Oliver, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 4.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

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 = \$ 500.00

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 firm is UBS Financial Services, Inc.

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00

Adjournment Fees

Adjournments granted during these proceedings:

April 19-23, 26-30, 2005, adjournment requested by the parties = \$ 1,200.00
(fee waived as the parties went to NASD Mediation)

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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 Panel x \$1,200.00	= \$ 2,400.00
Pre-hearing conferences: July 24, 2003	1 session
February 28, 2005	1 session

Fourteen (14) Hearing sessions x \$1,200.00	= \$ 16,800.00
Hearing Dates: October 5, 2005	2 sessions
October 6, 2005	2 sessions
October 7, 2005	3 sessions
October 11, 2005	3 sessions
October 12, 2005	2 sessions

October 14, 2005

2 sessions

Total Forum Fees = \$ 19,200.00

The Arbitration Panel has assessed \$19,200.00 of the forum fees jointly and severally to UBS Financial Services, Inc. and John V. D'Oliver.

Fee Summary

Claimants, Space Spinoffs, Inc. and Lawrence H. Kuznetz, are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Total Fees	= \$ 500.00
Less payments	= \$ 1,700.00
Balance Refund to Claimant by NASD Dispute Resolution	= \$ 1,200.00

Respondent, UBS Financial Services, Inc., is liable for:

Member Fees	= \$ 8,550.00
Total Fees	= \$ 8,550.00
Less payments	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 5,000.00

Respondents, UBS Financial Services, Inc. and John V. D'Oliver, are jointly and severally liable for:

Forum Fees	= \$19,200.00
Total Fees	= \$19,200.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$19,200.00

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

ARBITRATION PANEL

Philip I. McConnell, Esq. - Public Arbitrator, Presiding Chair
Walton L. Huff - Public Arbitrator
Robert M. Birenbaum - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Philip I. McConnell, Esq.
Philip I. McConnell, Esq.
Public Arbitrator, Presiding Chair

October 19, 2005
Signature Date

/s/ Walton L. Huff
Walton L. Huff
Public Arbitrator

October 19, 2005
Signature Date

/s/ Robert M. Birenbaum
Robert M. Birenbaum
Non-Public Arbitrator

October 19, 2005
Signature Date

October 19, 2005
Date of Service (For NASD office use only)

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10/19/05
Signature Date

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