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

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In the Matter of the Arbitration Between:

Name of the Claimant  
UBS Paine Webber, Inc.

Case Number: 02-07244

Name of the Respondent  
Sean Miller

Hearing Site: Boca Raton, Florida

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**REPRESENTATION OF PARTIES**

For UBS Paine Webber, Inc. (UBSPW), hereinafter referred to as "Claimant": Randi Spallina, Esq., Davidson, Manchel, & Brennan, LLP, Northvale, New Jersey.

Respondent Sean Miller appeared pro se.

**CASE INFORMATION**

Statement of Claim filed on or about: November 29, 2002.  
Claimant signed the Uniform Submission Agreement: November 14, 2002.  
Respondent Miller did not Answer the Statement of Claim.  
Respondent Miller did not file an executed Uniform Submission Agreement.

**CASE SUMMARY**

Claimant alleged that Respondent breached his employment contract by failing to repay a loan after his employment with Claimant ceased.

**RELIEF REQUESTED**

Claimant requested: compensatory damages in the amount of \$209,300.00, plus interest thereon from November 27, 2001 through payment of the Award; costs, fees and disbursements, including attorney's fees; and such other and further relief as the Panel may deem just and equitable.

**OTHER ISSUES CONSIDERED AND DECIDED**

Respondent Miller did not file with NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and having appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

At the evidentiary hearing, on or about July 30, 2003, Claimant made an ore tenus Motion to Bar Respondent Miller from presenting an affirmative defense. The Panel denied Claimant's motion.

At the evidentiary hearing on or about July 30, 2003, Claimant made an ore tenus motion for interest to be awarded at prime rate. The Panel denied Claimant's motion.

The parties 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 Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent Miller is liable and shall pay to Claimant \$209,300.00, the total amount owed pursuant to the promissory note.

Respondent Miller shall pay pre-judgment interest in the sum of \$3,940.73, for the period beginning December 1, 2001 and continuing through July 30, 2003. Post-judgment interest shall accrue at Claimant's prevailing daily money market rate, if Award not paid within 30 days from date of judgment.

Respondent Miller is liable and shall pay to Claimant costs in the sum of \$3,876.14, which includes disbursements and reimbursement of Claimant's NASD filing fee.

Attorney's fees in the sum of \$3,351.15 are awarded pursuant to the terms of the Promissory Note executed by Respondent Miller, which are governed by, and construed in accordance with, the laws of the State of New York.

Any and all requests for relief not specifically addressed herein, are denied.

### **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	= \$1,000.00
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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 firms that employed the associated persons at the time of the events giving rise to the dispute. UBSPW is 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 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 in this matter.

**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(s) with Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: May 15, 2003 I session	
One (1) Hearing sessions @ \$1,125.00	= \$1,125.00
Hearing Date: July 30, 2003 1 session	
Total Forum Fees	= \$2,250.00

1. The Panel assessed forum fees of \$1,125.00 to the Claimant.
2. The Panel assessed forum fees of \$1,125.00 to the 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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$1,000.00
Member Fees	= \$5,200.00
Forum Fees	= \$1,125.00
Total Fees	= \$7,325.00
Less payments	= \$4,575.00
Balance Due NASD Dispute Resolution	= \$2,750.00

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Arbitration No. 02-07244

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Respondent is solely liable for:

Forum Fees	= \$1,125.00
Total Fees	= \$1,125.00
Less payments	= \$ 0.00
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

Harry Dressler	-	Public Arbitrator, Presiding Chairperson
Mark I. Scheinbaum	-	Public Arbitrator
George D. Lambert, III	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/	8/8/03
Harry Dressler	Signature Date
Public Arbitrator, Presiding Chairperson	

/s/	8/8/03
Mark I. Scheinbaum	Signature Date
Public Arbitrator	

/s/	8/9/03
George D. Lambert, III	Signature Date
Non-Public Arbitrator	

8/15/03  
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

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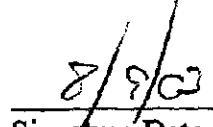
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