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

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In the Matter of the Arbitration Between:

Names of the Claimants

Michael A. Bloom  
Judy Bloom

Case Number: 03-00402

Name of the Respondent

UBS PaineWebber, Inc.

Hearing Site: Tampa, Florida

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Michael A. Bloom and Judy Bloom, hereinafter collectively referred to as "Claimants": Stephen A. Baker, Esq., St. Pete Beach, Florida.

For UBS PaineWebber, Inc., hereinafter referred to as "Respondent": Richard L. Martens, Esq. and Jason S. Haselkorn, Esq., Boose, Casey, Ciklin, Lubitz, Martens, McBane & O'Connell, West Palm Beach, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: January 8, 2003.

Claimants signed the Uniform Submission Agreements: January 7, 2003.

Statement of Answer filed by Respondent on or about: April 21, 2003.

Respondent signed the Uniform Submission Agreement: February 25, 2003.

Unopposed Motion to Submit Stipulated Award Granting Expungement filed by Respondent on or about: April 16, 2004.

**CASE SUMMARY**

Claimants asserted the following causes of action: unsuitability; failure to adhere to the clients' express instructions; breach of fiduciary duty; negligence; violations of Florida Statute Chapter 517, and NYSE Rule 405 and NASD Rule 2310. The causes of action relate to, among other things, the purchase in Claimants' accounts of shares of common stocks, including, but not limited to, the following: Tyco; AOL; CSCO; Dell; JDSU; SUNW; CPN; and WCOM.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$114,361.75, interest, costs, forum fees, attorneys' fees, and all other relief deemed just and proper by the Panel.

Respondent requested that the Statement of Claim be dismissed in its entirety and that all costs be assessed against Claimants.

**OTHER ISSUES CONSIDERED AND DECIDED**

On or about February 18, 2004, the parties filed with NASD Dispute Resolution a notice of settlement.

On or about April 16, 2004, the parties filed with NASD Dispute Resolution an unopposed Motion to Submit a Stipulated Award Granting Expungement of non-party UBS Financial Services employee, Arthur S. Day's ("Day") NASD Central Registration Depository ("CRD") record, which was granted by the Panel.

On or about April 16, 2004, the parties filed with NASD Dispute Resolution a proposed Stipulated Award for review and approval by the Panel.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered. The parties further agreed to receive conformed copies of the Stipulated Award while the original(s) remain on file with NASD Dispute Resolution.

**AWARD**

After considering the parties submissions and the Stipulated Award Granting Expungement, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimants' withdrawal of their claims against Respondent, with prejudice, is accepted and Respondent is dismissed from this matter.

Following the filing of the Statement of Claim in this matter, Respondent disclosed the matter on the NASD CRD record of Day, based on the nature of the allegations contained in Claimants' pleadings. However, this matter involved disputed claims and was settled by the parties on or about February 18, 2004, prior to the submission of any evidence by any party, and prior to the final arbitration hearing. As such, no evidence was submitted to this Panel demonstrating that Day was involved in the wrongdoing alleged in the pleadings. Accordingly, the Panel recommends the expungement of all references to the above captioned arbitration from Day's permanent registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Day must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

**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 = \$ 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, Respondent is a member firm and a party:

Member surcharge = \$ 1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 2,750.00

Total Member Fee = \$ 5,200.00

**Adjournment Fees**

No adjournments were requested 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.

**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 three-day cancellation fees were assessed 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 with the Panel @ \$1,125.00 = \$ 1,125.00

Pre-hearing conference: September 16, 2003 1 session

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00

Pre-hearing conference: January 26, 2004 1 session

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Total Forum Fees = \$ 1,575.00

The Panel has assessed \$787.50 of the forum fees to Claimants, jointly and severally.  
The Panel has assessed \$787.50 of the forum fees to 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.

No administrative costs were incurred during this proceeding.

**Fee Summary**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 787.50
Retained Hearing Session Deposit pursuant to Rule 10332(f) of the Code	= \$ 337.50
Total Fees	= \$ 1,425.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Member Fees	= \$ 5,200.00
Forum fees	= \$ 787.50
Total Fees	= \$ 5,987.50
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 787.50

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

**ARBITRATION PANEL**

John P. Cullem, Esq.	-	Public Arbitrator, Presiding Chairperson
Dana T. Fogg	-	Public Arbitrator
Joseph D. Valenti	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/s/\_\_\_\_\_  
John P. Cullem, Esq.  
Public Arbitrator, Presiding Chairperson

November 1, 2004  
Signature Date

/s/  
Dana T. Fogg  
Public Arbitrator

November 3, 2004  
Signature Date

/s/  
Joseph D. Valenti  
Non-Public Arbitrator

November 1, 2004  
Signature Date

November 8, 2004  
Date of Service (For NASD Dispute Resolution office use only)

NOV. 1, 2004 10:25AM

NASD REGULATIONS

NO. 864 P. 5

**NASD Dispute Resolution**  
**Arbitration No. 03-00402**  
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Total Fees	= \$ 1,425.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

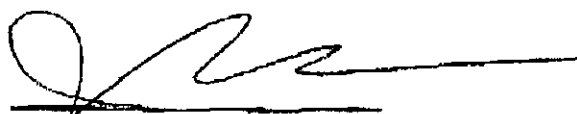
Member Fees	= \$ 5,200.00
<u>Forum fees</u>	<u>= \$ 787.50</u>
Total Fees	= \$ 5,987.50
<u>Less payments</u>	<u>= \$ 5,200.00</u>
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Dana T. Fogg	-	Public Arbitrator
Joseph D. Valenti	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

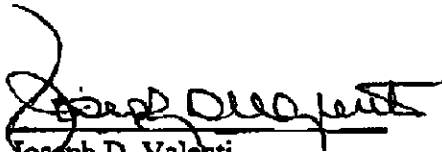
  
John P. Cullem, Esq.  
Public Arbitrator, Presiding Chairperson

11/1/2004  
Signature Date

NASD Dispute Resolution  
Arbitration No. 03-00402  
Stipulated Award Page 5

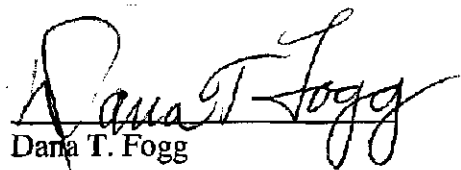
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Dana T. Fogg  
Public Arbitrator

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Signature Date

  
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Joseph D. Valenti  
Non-Public Arbitrator

11/1/04  
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Signature Date

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



Dana T. Fogg  
Public Arbitrator

11-3-04  
Signature Date

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Joseph D. Valenti  
Non-Public Arbitrator

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Signature Date

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