

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Names of the Claimants
Gary Gross and John Page

Case Number: 03-00527

Name of the Respondent
UBS PaineWebber, Inc.

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Associated Person vs. Member.

REPRESENTATION OF PARTIES

For Gary Gross ("Gross") and John Page ("Page"), hereinafter collectively referred to as "Claimants": Eugene M. Kennedy, Esq., Law Offices of Kennedy and Schwartz, P.A., Fort Lauderdale, Florida.

For UBS PaineWebber, Inc., hereinafter referred to as "Respondent": Lawrence A. Kellogg, Esq. and Jezabel L. Lorente, Esq., Tew Cardenas Rebak Kellogg Lehman DeMaria Tague Raymond and Levine, LLP, Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: January 23, 2003.
Claimants signed but did not date the Uniform Submission Agreement.
Respondent signed the Uniform Submission Agreement on: October 3, 2006.
Statement of Answer and Counterclaim filed on or about: April 9, 2003.
Claimants' Statement of Answer to Respondent's Counterclaim filed on or about: April 22, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: 1) wrongful termination; 2) breach of contract; 3) fraudulent inducement; 4) libel and slander; and 5) interference with an advantageous business relationship. The causes of action relate to Claimants' employment with Respondent and Respondent's wrongful termination of Claimants. In their answer to the counterclaim, Claimants denied the allegations and asserted various affirmative defenses.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim, and asserted various affirmative defenses. In its counterclaim, Respondent asserted the following causes of action: breach of contract on the promissory note (the "Note") and indemnification.

RELIEF REQUESTED

Claimants requested: 1) compensatory damages in the amount of \$2,500,000.00; 2) pre- award interest; 3) reasonable attorneys' fees; 4) costs; 5) such other relief as the Panel deemed just and proper; and 6) dismissal of the counterclaim.

In its Answer, Respondent requested that the Panel: 1) dismiss Claimants' claims; 2) award costs; 3) award attorneys' fees; assess all forum fees against Claimants; and, 4) award such other and further relief as the Panel deemed just and appropriate.

In its Counterclaim, Respondent requested: 1) compensatory damages against Claimant Gross of \$673,928.84; 2) compensatory damages against Claimant Page of \$674,274.99; 2) interest; 3) costs; 4) attorneys' fees; 5) contribution and indemnification; and 5) such other and further relief as this Panel deemed just and proper.

During the evidentiary hearing, Respondent submitted a Schedule of Damages against Claimants as follows:

- 1- Claimant Gross' Unpaid Note and Interest Accrued in the amount of \$894,551.77
- 2- Claimant Page's Unpaid Note and Interest Accrued in the amount of \$894,551.77
- 3- Settlement Paid to Claimants in the amount of \$1,634,075.00
- 4- Attorneys' Fees and Costs in the amount of \$206,456.27
- 5- Headhunter Fee incurred due to Claimant Gross in the amount of \$68,164.68
- 6- Headhunter Fee incurred due to Claimant Page in the amount of \$68,164.68

OTHER ISSUES CONSIDERED AND DECIDED

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.

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:

All of Claimants' claims for relief are denied, with prejudice.

Claimant Gross is found liable under the cause of action of breach of contract on the promissory note and shall pay to Respondent:

- 1- Compensatory damages in the amount of \$894,552.00;
- 2- Reimbursement for the costs of a recruiter in the amount of \$40,898.00;
- 3- Interest at the legal rate from the date of the award until the award is paid in full;
- 4- Attorneys' fees in the amount of \$50,000.00 based upon the authority of the promissory note; and,
- 5- Costs in the amount of \$4,541.00.

Claimant Page is found liable under the cause of action of breach of contract on the promissory note and shall pay to Respondent:

- 1- Compensatory damages in the amount of \$894,552.00;
- 2- Reimbursement for the costs of a recruiter in the amount of \$40,898.00;
- 3- Interest at the legal rate from the date of the award until the award is paid in full;
- 4- Attorneys' fees in the amount of \$50,000.00 based upon the authority of the promissory note; and,
- 5- Costs in the amount of \$4,541.00.

Respondent's claim for settlement paid for claimants is denied.

Any and all claims for relief not specifically addressed herein, including Claimants' request for attorneys' fees, 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	= \$ 500.00
Counterclaim filing fee	= \$2,000.00

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. Accordingly, Respondent is a party and a member firm.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00
Total Member Fees	= \$8,550.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

The February 3 – 5, 2004, July 13 - 17, 2004 and February 22 – 24, 2005 adjournments were requested by Respondent.

The Panel has assessed an adjournment fee of \$4,200.00 to Respondent.

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:

There were no three-day cancellation fees assessed during these proceedings.

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.

There were no injunctive relief fees assessed during these proceedings.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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:

Three (3) Pre-hearing sessions with Panel @ \$1,200.00/session	= \$3,600.00
Pre-hearing conferences: August 18, 2003	1 session
February 3, 2004	1 session
March 3, 2005	1 session

Eight (8) Hearing sessions @ \$1,200.00/session	= \$9,600.00
Hearing Dates: October 16, 2006	2 sessions
October 17, 2006	2 sessions
October 18, 2006	2 sessions
October 19, 2006	2 sessions

Total Forum Fees	= \$13,200.00
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The Panel has assessed \$6,600.00 of the forum fees to Claimant Gross.
The Panel has assessed \$6,600.00 of the forum fees to Claimant Page.

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 are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 500.00
<u>Total Fees</u>	= \$ 500.00
<u>Less payments</u>	= \$ 500.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Claimant Gross is solely liable for:

<u>Forum Fees</u>	= \$ 6,600.00
<u>Total Fees</u>	= \$ 6,600.00
<u>Less payments</u>	= \$ 600.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 6,000.00

Claimant Page is solely liable for:

<u>Forum Fees</u>	= \$ 6,600.00
<u>Total Fees</u>	= \$ 6,600.00
<u>Less payments</u>	= \$ 600.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 6,000.00

Respondent is solely liable for:

<u>Member Fees</u>	= \$ 8,550.00
<u>Counterclaim Filing Fee</u>	= \$ 2,000.00
<u>Adjournment Fees</u>	= \$ 4,200.00
<u>Total Fees</u>	= \$14,750.00
<u>Less payments</u>	= \$11,750.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 3,000.00

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

ARBITRATION PANEL

Richard J. Kaplan, Esq.
David Rich
R. Peter Olin

Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Richard J. Kaplan, Esq.
Public Arbitrator, Presiding Chairperson

October 23, 2006
Signature Date

/s/
David Rich
Public Arbitrator

October 23, 2006
Signature Date

/s/
R. Peter Olin
Non-Public Arbitrator

October 21, 2006
Signature Date

October 23, 2006
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
 Arbitration No. 03-00527
Award Page 5 of 5

Claimant Gross is solely liable for:

Forum Fees	= \$ 6,600.00
Total Fees	= \$ 6,600.00
Less payments	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$ 6,000.00

Claimant Page is solely liable for:

Forum Fees	= \$ 6,600.00
Total Fees	= \$ 6,600.00
Less payments	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$ 6,000.00

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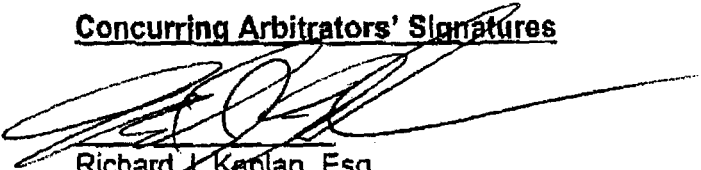
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10/23/06
 Signature Date


 David Rich
 Public Arbitrator

Signature Date


 R. Peter Olin
 Non-Public Arbitrator

Signature Date

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Claimant Gross is solely liable for:

Forum Fees	= \$ 6,600.00
Total Fees	= \$ 6,600.00
Less payments	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$ 6,000.00

Claimant Page is solely liable for:

Forum Fees	= \$ 6,600.00
Total Fees	= \$ 6,600.00
Less payments	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$ 6,000.00

Respondent is solely liable for:

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Public Arbitrator
Non-Public Arbitrator

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Public Arbitrator, Presiding Chairperson



David Rich
Public Arbitrator

Signature Date

10/23/06
Signature Date

R. Peter Olin
Non-Public Arbitrator

Signature Date

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NASD Dispute Resolution
Arbitration No. 03-00527-
Award Page 5 of 5

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Less payments	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$ 6,000.00

Claimant Page is solely liable for:

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Total Fees	= \$ 6,600.00
Less payments	= \$ 600.00
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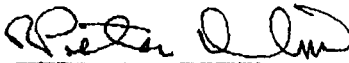
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Richard J. Kaplan, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

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Public Arbitrator

Signature Date


R. Peter Olin
Non-Public Arbitrator

10/21/06
Signature Date

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