

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Sheila Perrin, Claimant v. UBS PaineWebber, Inc. and John R. McDonald, Respondents

Case Number: 03-01656

Hearing Site: Seattle, Washington

Nature of Dispute: Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimant:

Stephen M. Hansen, Esq.
Lowenberg, Lopez & Hansen, P.S.
Tacoma, Washington

For Respondents:

Ted W. Lieu, Esq.
UBS PaineWebber, Inc.
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: March 6, 2003

Claimant's Uniform Submission Agreement signed: March 3, 2003

Joint Statement of Answer filed by Respondents: May 27, 2003

Respondent UBS PaineWebber, Inc.'s Uniform Submission Agreement signed: May 27, 2003

Respondent John R. McDonald's Uniform Submission Agreement signed: April 17, 2003

CASE SUMMARY

In her Statement of Claim, Claimant alleged breach of contract, unsuitability, omission of facts, unjust enrichment, misrepresentations and non-disclosures, failure to supervise, negligence, violation of Washington Securities Act, RCW 21.20.010 and violation of Washington Securities Act, RCW 21.20.702 involving investment in the following stocks: Global Technologies LTD, Network Peripherals, Network -1 Security Solutions, Inc. and, Techniclone Corporation New.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested compensatory damages in excess of the sum of \$130,000.00, interest, post-award interest, costs, attorney's fees, expert witness fees, and treble damages.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, costs and expungement of all reference to the above captioned arbitration from Respondent John R. McDonald registration records maintained by the NASD Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

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

ARBITRATORS FINDINGS AND CONCLUSION

The Panel finds that Claimant initially agreed in her New Account Application to an "account investment objective risk profile" of "Primary: speculative aggressive; Secondary: Moderate."

After very early large losses in her portfolio, Claimant's risk tolerance clearly changed. Claimant made her desire for a lower risk known to Respondent John R. McDonald. Nevertheless, after communication of this change of risk tolerance, there were continuing activities recommended by Respondent John R. McDonald in Claimant's account of an aggressive/speculative nature.

By November 2000, Claimant was in a panic about her investments. Another broker employed to Respondent UBS PaineWebber, Inc. advised Claimant to liquidate her speculative/aggressive investments. Claimant chose not to follow this advice. The Panel finds that it is not proper to reward the Claimant for not following this advice.

AWARD

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

- 1) Respondents are jointly and severally liable and shall pay Claimant compensatory damages in the sum of \$52,013.00.
- 2) Respondents are jointly and severally liable and shall pay interest on the sum of \$52,013.00 at a rate of 12% per annum pursuant to Washington State Statute from the date of service of the award until paid in full.
- 3) Claimant's request for prejudgment interest is denied.
- 4) Respondents are jointly and severally liable and shall pay Claimant the sum of \$300.00 as reimbursement for the initial claim filing fee.
- 5) Claimant's request for treble damages is denied.
- 6) Except as noted above, the parties shall bear their respective costs, including attorney's fees.
- 7) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm UBS PaineWebber, Inc. is a party and the following fees are assessed:

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

The following adjournment fees are assessed:

May 26-27, 2004, adjournment requested by Respondents	Waived
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Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel. The following fees are assessed:

(2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$2,250.00
Pre-hearing conferences: September 3, 2003	1 session
October 13, 2003	1 session
(4) Hearing sessions @ \$1,125.00/session	= \$ 4,500.00
Hearings: May 24, 2004	2 sessions
May 25, 2004	2 sessions
Total Forum Fees	= \$ 6,750.00

The Panel assessed \$6,750.00 forum fees jointly and severally to Respondents.

Fee Summary

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| 1. Claimant is charged with the following fees and costs: | |
| Initial Filing Fee | = \$ 300.00 |
| Unpaid NASD Mediation Session Fee | = \$ 250.00 |
| <u>Less payments</u> | <u>= \$(1,425.00)</u> |
| Refund Due Claimant | = \$(875.00) |
| 2. Respondent UBS PaineWebber, Inc. is charged with the following fees and costs: | |
| Member Fees | = \$ 5,200.00 |
| <u>Less payments</u> | <u>= \$(5,200.00)</u> |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |
| 3. Respondents UBS PaineWebber, Inc. and John R. McDonald are charged jointly and severally with the following fees and costs: | |
| Forum Fees | = \$ 6,750.00 |
| <u>Less Unused Mediation Deposit</u> | <u>= \$(1,280.00)</u> |
| Balance Due NASD Dispute Resolution | = \$ 5,470.00 |

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

ARBITRATION PANEL

H. Yancey Reser, Esq.

Public Arbitrator, Presiding Chair

William J. Bender, JD

Public Arbitrator

Thomas E. Rausch

Non-Public Arbitrator

Concurring Arbitrators' Signatures

H. Yancey Reser

H. Yancey Reser, Esq.
Chair, Public Arbitrator

6/16/04
Signature Date

William J. Bender, JD
Public Arbitrator

Signature Date

Thomas E. Rausch
Non-Public Arbitrator

Signature Date

6/16/04
Date of Service


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William J. Bender, JD	-	Public Arbitrator
Thomas E. Rausch	-	Non-Public Arbitrator

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Chair, Public Arbitrator

Signature Date



William J. Bender, JD
Public Arbitrator

6-15-04

Signature Date

Thomas E. Rausch
Non-Public Arbitrator

Signature Date

6/16/04

Date of Service

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Thomas E. Rauch	-	Non-Public Arbitrator

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