

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

UBS PaineWebber, Inc. n/k/a UBS Financial Services, Inc. (Claimant) v. Robert Wayne Alcus (Respondent)

Case Number: 03-01939

Hearing Site: New York, New York

Nature of the Dispute: Member vs. Associated Person.

REPRESENTATION OF PARTIES

Claimant UBS PaineWebber, Inc. n/k/a UBS Financial Services, Inc. ("UBS") hereinafter referred to as "Claimant": Deborah H. Gottlieb, Esq., Davidson, Manchel & Brennan, LLP, Northvale, NJ. Previously represented by: Lisa A. Catalano, Esq., Davidson, Manchel & Brennan, LLP, Northvale, NJ.

Respondent Robert Wayne Alcus ("Alcus") hereinafter referred to as "Respondent": Richard J. Flanagan, Esq., Flanagan & Associates, PLLC, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: March 17, 2003.

Response to Respondent's Answer with Counterclaims filed on or about: May 29, 2003.

Claimant signed the Uniform Submission Agreement: March 11, 2003.

Statement of Answer with Counterclaims filed by Respondent on or about: May 14, 2003.

Respondent signed the Uniform Submission Agreement: May 16, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: breach of the terms of Promissory Note #10657 by which he received the Employee Forgivable Loan. Unless specifically admitted in its Response to Respondent's Answer with Counterclaims, Claimant denied the allegations made in the Answer with Counterclaims and asserted various affirmative defenses.

Unless specifically admitted in his Answer with Counterclaims, Respondent denied the allegations made in the Statement of Claim. In his Counterclaim, Respondent asserted the following causes of action: misrepresentation of employment relationship and breach of employment agreement.

RELIEF REQUESTED

Claimant requested money damages in the amount of \$158,205.52 plus interest thereon from May 1, 2002 through the payment of the award; all costs, fees, and disbursements of this action, including attorneys' fees; and such other and further relief as the Arbitration Panel may deem just and equitable. In its Response to Respondent's Answer with Counterclaims, Claimant requested that Respondent's demand for judgment and Counterclaims be expressly denied and dismissed in its entirety.

Respondent requested an amount to be determined on his First Counterclaim; an amount to be determined on his Second Counterclaim; together with the costs and disbursements of this proceeding.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing, Respondent submitted an Amendment withdrawing his Counterclaims.

Claimant made a motion to preclude. The Panel with the consent of both parties, did not make a decision since the motion was irrelevant.

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, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for and shall pay to Claimant compensatory damages in the amount of \$176,696.95, inclusive of interest accrued to the date of the hearing on January 14, 2004.
2. Respondent is liable for and shall pay to Claimant interest at a rate of 4% from the date of the Award through the date the Award is paid.
3. Respondent is liable for and shall pay to Claimant attorneys' fees and costs in the amount of \$15,404.41, in accordance with the terms of the Promissory Note.
4. Any and all relief not specifically addressed herein is denied.

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	= \$1,000.00
Counterclaim filing fee	= \$ 250.00

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 UBS PaineWebber, Inc. n/k/a UBS Financial Services, Inc. is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$ 900.00
Pre-hearing conferences: November 13, 2003 1 session	
January 12, 2004 1 session	
One (1) Pre-hearing session with Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: August 14, 2003 1 session	
Two (2) Hearing sessions @ \$1,125.00	= \$2,250.00
Hearing Date: January 14, 2004 2 sessions	
Total Forum Fees	= \$4,275.00

1. The Panel has assessed the forum fees totaling \$4,275.00 against Respondent.

Fee Summary

1. Claimant is solely liable for:	
Initial Filing Fee	= \$1,000.00
Member Fees	= \$5,200.00
Total Fees	= \$6,200.00
Less payments	= \$7,325.00
Refund Due to Claimant	= \$1,125.00

2. Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 250.00
<u>Forum Fees</u>	<u>= \$4,275.00</u>
Total Fees	= \$4,525.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$4,525.00

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

ARBITRATION PANEL

Brian S. Hamburger, Esq.	-	Non-Public Arbitrator, Presiding Chair
Arthur Best	-	Non-Public Arbitrator
Marie Montagnino	-	Non-Public Arbitrator

Concurring Arbitrators' Signature

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



Brian S. Hamburger, Esq.
Non-Public Arbitrator, Presiding Chairperson

2/3/04

Signature Date

Arthur Best
Non-Public Arbitrator

Signature Date

Marie Montagnino
Non-Public Arbitrator

Signature Date

February 6, 2004

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

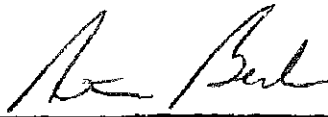
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Brian S. Hamburger, Esq.
Non-Public Arbitrator, Presiding Chairperson

Signature Date



Arthur Best
Non-Public Arbitrator



Signature Date

Marie Montagnino
Non-Public Arbitrator

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Concurring Arbitrators' Signature

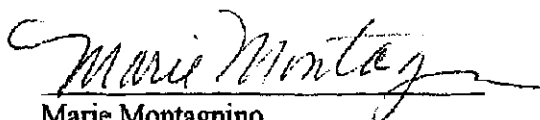
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Brian S. Hamburger, Esq.
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Arthur Best
Non-Public Arbitrator

Signature Date



Marie Montagnino
Non-Public Arbitrator

1/30/04

Signature Date

February 6, 2004

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