
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 03-02558

William J. Klopf

Sybil G. Klopf

William J. Klopf, custodian for Kevin M. Klopf

William J. Klopf, custodian for Jonathan L. Klopf

Names of the Respondents

Hearing Site: New Orleans, Louisiana

UBS PaineWebber, Inc. as successor in
interest to PaineWebber, Inc.

David L. Eustis, Jr.

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

For William J. Klopf ("William"), Sybil G. Klopf ("Sybil"), William J. Klopf, custodian for Kevin M. Klopf ("Kevin") and William J. Klopf, custodian for Jonathan L. Klopf ("Jonathan"), hereinafter collectively referred to as "Claimants": William W. Edelman, Esq., William W. Edelman PLC, Metairie, Louisiana.

For UBS PaineWebber, Inc., as successor in interest to PaineWebber, Inc., ("UBS") and David L. Eustis, Jr. ("Eustis"), hereinafter collectively referred to as "Respondents": George C. Freeman, III, Esq. and Mark J. Fernandez, Esq., Barrasso Usdin Kupperman Freeman & Sarver, L.L.C., New Orleans, Louisiana.

CASE INFORMATION

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

Claimants signed the Uniform Submission Agreement: April 2, 2003.

Statement of Answer filed by Respondents on or about: June 30, 2003.

Respondent UBS signed the Uniform Submission Agreement: May 21, 2003.

Respondent Eustis did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; breach of contract; breach of the standard of care; negligence; unsuitability; malpractice; and, misrepresentation. The causes of action relate to a private investment in Enhanceme.com and the purchase and sale of shares of Celstica, Inc., EMC Corporation, Corning Incorporated and other unspecified stocks in Claimants' accounts.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimants individually requested the following compensatory damages:

\$345,229.81, plus interest in the amount of \$81,743.59, in Claimants William and Sybil's joint account;

\$92,574.61, plus interest in the amount of \$18,287.19, in Claimant William's IRA account;

\$18,128.10, plus interest in the amount of \$3,581.02, in Claimant Kevin's custodial account; and,

\$16,937.01, plus interest in the amount of \$3,345.74, in Claimant Jonathan's custodial account.

In addition, Claimants collectively requested compensatory damages in the amount of \$100,000.00, plus interest in the amount of \$19,754.00 for the investment in Enhanceme.com, punitive damages in the amount of \$250,000.00, lost earnings and any other relief deemed just and proper.

Respondents requested that the Statement of Claim be denied in all respects, that all forum fees and costs be assessed against Claimants, that all references to this matter be expunged from their respective NASD Central Registration Depository ("CRD") records and any other relief deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

At the close of Claimants' case on October 12, 2004, Respondents made an ore tenus motion to dismiss Claimants' claims. Claimants objected to the motion. The Panel denied the motion.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

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:

Claimants' claims are denied in their entirety.

Respondents' request for expungement is denied.

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages, are 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 = \$ 375.00

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, the member firm UBS PaineWebber, Inc. is a party.

Member surcharge = \$2,250.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed in this matter.

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 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 with the Panel @ \$1,200.00 = \$1,200.00
Pre-hearing conference: November 13, 2003 1 session

Seven (7) Hearing sessions @ \$1,200.00	= \$8,400.00
Hearing Dates: October 11, 2004 2 sessions	
October 12, 2004 2 sessions	
October 13, 2004 3 sessions	
<hr/> Total Forum Fees	<hr/> = \$9,600.00

The Panel has assessed \$4,800.00 of the forum fees jointly and severally to Claimants.
The Panel has assessed \$4,800.00 of the forum fees jointly and severally to Respondents.

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.

No administrative costs were incurred in this matter.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 4,800.00
Total Fees	= \$ 5,175.00
Less payments	= \$ 1,575.00
Balance Due NASD Dispute Resolution	= \$ 3,600.00

Respondent UBS is solely liable for:

Member Fees	= \$ 7,000.00
Total Fees	= \$ 7,000.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

Forum Fees	= \$ 4,800.00
Total Fees	= \$ 4,800.00
Less payments	= \$ 3,250.00
Balance Due NASD Dispute Resolution	= \$ 1,550.00

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

ARBITRATION PANEL

Bruce V. Schewe	-	Public Arbitrator, Presiding Chairperson
Mark A. Myers, Esq.	-	Public Arbitrator
Robert J. Eitel	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

10/27/04

Bruce V. Schewe
Public Arbitrator, Presiding Chairperson

Signature Date

/s/

10/29/04

Mark A. Myers, Esq.
Public Arbitrator

Signature Date

/s/

10/28/04

Robert J. Eitel
Non-Public Arbitrator

Signature Date

10/29/04

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

Concurring Arbitrators' Signatures

Bruce V. Schewe

Bruce V. Schewe
Public Arbitrator, Presiding Chairperson

27 October 2004
Signature Date

Mark A. Myers, Esq.
Public Arbitrator

Signature Date

Robert J. Eitel
Non-Public Arbitrator

Signature Date

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

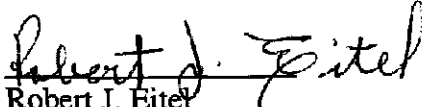
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Bruce V. Schewe
Public Arbitrator, Presiding Chairperson

Signature Date

Mark A. Myers, Esq.
Public Arbitrator

Signature Date


Robert J. Eitel
Non-Public Arbitrator

10/28/04
Signature Date

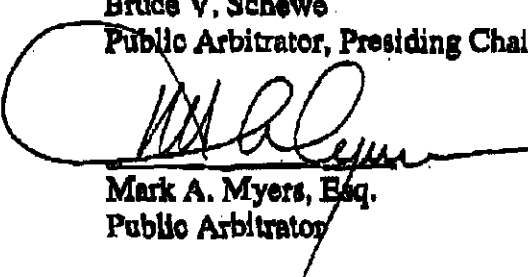
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Public Arbitrator, Presiding Chairperson

Signature Date


Mark A. Myers, Esq.
Public Arbitrator

10-29-04
Signature Date

Robert J. Hittel
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