

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

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In the Matter of the Arbitration Between:

Hillary Hayden, Claimant v. UBS PaineWebber, Inc. n/k/a UBS Financial Services, Inc.,  
William N. Keller, Robertson Stephens, Inc., London Pacific Securities, Inc., Lawrence G. Gray,  
Sr., and Joseph J. Piazza, Respondents

Case Number: 03-02786

Hearing Site: San Francisco, California

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Nature of the Dispute: Customer v. Members and Associated Persons

**REPRESENTATION OF PARTIES**

For Claimant:

Michael Bolgatz, Esq.  
The Law Offices of Michael G. Bolgatz  
Berkeley, California

For Respondents London Pacific Securities, Inc. and  
Lawrence G. Gray, Sr.:

Samuel Y. Edgerton, III, Esq.  
Rebecca E. Delany, Esq.  
Edgerton & Weaver LLP  
Hermosa Beach, California

For Respondents Robertson Stephens, Inc., William N.  
Keller, and Joseph J. Piazza:

Peter R. Boutin, Esq.  
Christopher A. Stecher, Esq.  
Keesal, Young & Logan  
San Francisco, California

For Respondents UBS PaineWebber, Inc. n/k/a  
UBS Financial Services, Inc. and William N. Keller  
(while employed at UBS PaineWebber, Inc.)

Ted W. Lieu, Esq.  
UBS Financial Services, Inc.  
Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed: April 10, 2003

Claimant's Uniform Submission Agreement signed: March 31, 2003

Joint Statement of Answer filed by Respondents London Pacific Securities, Inc. and Lawrence G. Gray, Sr.: July 17, 2003

Joint Statement of Answer filed by Respondents Robertson Stephens, Inc., William N. Keller, and Joseph J. Piazza: July 18, 2003

Joint Statement of Answer filed by Respondents UBS PaineWebber, Inc. n/k/a UBS Financial Services, Inc. and William N. Keller (while employed at UBS PaineWebber, Inc.): July 17, 2003

Respondent UBS Financial Services, Inc.'s Uniform Submission Agreement signed: July 17, 2003

Respondent Robertson Stephens, Inc.'s Uniform Submission Agreement signed: July 18, 2003

Respondent Joseph J. Piazza's Uniform Submission Agreement signed: July 18, 2003

### **CASE SUMMARY**

Claimant alleged breach of contract, unauthorized trading, failure to supervise, breach of fiduciary duty, negligence, suitability, misrepresentations, omission of facts and non-disclosures in connection with the management of common stock in various companies, including, but not limited to, Critical Path, Inc., Avantgo, Inc., Navisite, Inc., Webvan Group, and CMG Information Services, Inc.

Respondents London Pacific Securities, Inc. and Lawrence G. Gray, Sr. denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

Respondents Robertson Stephens, Inc., William N. Keller, and Joseph J. Piazza denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

Respondents UBS PaineWebber, Inc. n/k/a UBS Financial Services, Inc. and William N. Keller (while employed at UBS PaineWebber, Inc.) denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested \$1,800,000.00 in compensatory damages, commissions, mark-up and mark-downs, interest, and costs, including attorney's fees.

Respondents London Pacific Securities, Inc. and Lawrence G. Gray, Sr. requested dismissal of Claimant's Statement of Claim in its entirety, and costs, including attorney's fees.

Respondents Robertson Stephens, Inc., William N. Keller, and Joseph J. Piazza requested dismissal with prejudice of the Claimant's Statement of Claim in its entirety, and expungement of all references to the Claim from William N. Keller's and Joseph J. Piazza's individual Central Registration Depository (CRD) records.

Respondents UBS PaineWebber, Inc. n/k/a UBS Financial Services, Inc. and William N. Keller (while employed at UBS PaineWebber, Inc.) requested dismissal of Claimant's Statement of Claim in its entirety, expungement of all references to the Claim from William N. Keller's Central Registration Depository (CRD) record, and costs, including attorney's fees.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondents William N. Keller, London Pacific Securities, Inc., and Lawrence G. Gray, Sr. did not file with NASD Dispute Resolution, properly executed submission agreements; however, all said Respondents are required to submit to arbitration and, Respondents William N. Keller, London Pacific Securities, Inc., and Lawrence G. Gray, Sr., having answered the claim and having appeared at the pre-hearings, are bound by the determination of the Panel on all issues submitted.

On June 9, 2003, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On January 13, 2004, Claimant dismissed Respondent UBS PaineWebber, Inc. n/k/a UBS Financial Services, Inc. from this matter.

On January 14, 2004, Claimant dismissed Respondents London Pacific Securities, Inc. and Lawrence G. Gray, Sr. from this matter.

On December 17, 2004, the remaining parties to this matter submitted a stipulated request for an Award that dismisses this arbitration case with prejudice and recommends the expungement of all references to this arbitration matter from Respondents William N. Keller and Joseph J. Piazza's registration records maintained by the NASD Central Registration Depository ("CRD"). On February 18, 2005, the Panel held a deliberation teleconference and decided to conduct a telephonic conference with the remaining parties before deciding the stipulated request. On April 1, 2005, a telephonic conference was held, attended by the remaining parties and the panel. After extensive deliberation in executive session, the majority of the panel decided to grant the stipulated request.

The parties 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, testimony, and the Parties' request for this stipulated award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. This arbitration claim is dismissed with prejudice.
2. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent William N. Keller's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent William N. Keller must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Joseph J. Piazza's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Joseph J. Piazza must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. The parties shall bear their respective costs, including attorney's fees.
5. 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	= \$ 500.00
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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 which gave rise to the dispute, claim, or controversy. Accordingly, the member firm London Pacific Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 5,000.00</u>
<b>Total Member Fees</b>	<b>= \$ 8,550.00</b>

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 which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Robertson Stephens, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 5,000.00</u>
<b>Total Member Fees</b>	<b>= \$ 8,550.00</b>

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 which gave rise to the dispute, claim, or controversy. Accordingly, the member firm UBS PaineWebber, Inc. n/k/a UBS Financial Services, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 5,000.00</u>
<b>Total Member Fees</b>	<b>= \$ 8,550.00</b>

#### **Adjournment Fees**

Adjournment of the March 31, April 1, April 2, and April 6, 2004 hearings requested by the parties in order to pursue NASD mediation	= 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 Chair/Panel. The following fees are assessed:

1 Pre-hearing conference session with the Chairperson @ \$450.00/session = \$ 450.00  
Pre-hearing conference: January 7, 2004 1 session

2 Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$ 2,400.00  
Pre-hearing conferences: December 3, 2003 1 session  
" April 1, 2005 1 session

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**Total Forum Fees** = \$ 2,850.00

1. The Panel assessed \$825.00 of the forum fees to Claimant.
2. The Panel assessed \$2,025.00 of the forum fees jointly and severally to Respondents Robertson Stephens, Inc., William N. Keller, and Joseph J. Piazza. This includes the \$1,200.00 forum fee associated with the April 1, 2005 telephonic conference on expungement.

**Fee Summary**

1. Claimant Hillary Hayden is charged with the following fees and costs:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 825.00
Total Fees	= \$ 1,325.00
Less payments	= \$ (1,800.00)
<b>Refund Due Claimant</b>	<b>= \$ (475.00)</b>

2. Respondent London Pacific Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 8,550.00
Less payments	= \$ (8,550.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

3. Respondent Robertson Stephens, Inc. is charged with the following fees and costs:

Member Fees	= \$ 8,550.00
Less unused deposits from Mediation	= \$ (250.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 8,300.00</b>

4. Respondent UBS PaineWebber, Inc. n/k/a UBS Financial Services, Inc. is charged with the following fees and costs:

Member Fees	= \$ 8,550.00
<u>Less payments</u>	<u>= \$ (8,550.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

5. Respondents Robertson Stephens, Inc., William N. Keller, and Joseph J. Piazza are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	<u>= \$ 2,025.00</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 2,025.00</b>

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.

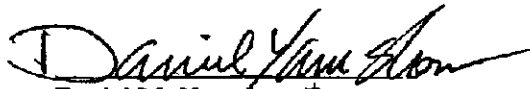
**ARBITRATION PANEL**

Mario Henry Barsotti	-	Public Arbitrator, Presiding Chair
Daniel M. Yamshon	-	Public Arbitrator
Rudy E. Thorwirth	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures:**

\_\_\_\_\_  
Mario Henry Barsotti, Esq.  
Chair, Public Arbitrator

\_\_\_\_\_  
Signature Date

  
Daniel M. Yamshon, Esq.  
Public Arbitrator

4/5/05  
\_\_\_\_\_  
Signature Date

**Dissenting Arbitrator's Signature:**

\_\_\_\_\_  
Rudy E. Thorwirth  
Industry/Non-Public Arbitrator

\_\_\_\_\_  
Signature Date


4/6/05  
\_\_\_\_\_  
Date of Service



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Mario Henry Barsotti	-	Public Arbitrator, Presiding Chair
Daniel M. Yamshon	-	Public Arbitrator
Rudy E. Thorwirth	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures:**



Mario Henry Barsotti, Esq.  
Chair, Public Arbitrator

4/5/05  
Signature Date

\_\_\_\_\_  
Daniel M. Yamshon, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

**Dissenting Arbitrator's Signature:**

\_\_\_\_\_  
Rudy E. Thorwirth  
Industry/Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

4/6/05  
Date of Service

**ARBITRATION PANEL**

Mario Henry Barsotti	-	Public Arbitrator, Presiding Chair
Daniel M. Yamshon	-	Public Arbitrator
Rudy E. Thorwirth	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures:**

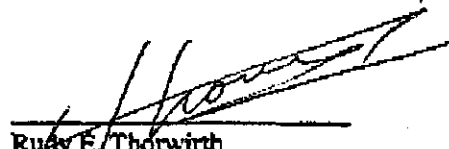
\_\_\_\_\_  
Mario Henry Barsotti, Esq.  
Chair, Public Arbitrator

\_\_\_\_\_  
Signature Date

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Daniel M. Yamshon, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

**Dissenting Arbitrator's Signature:**

  
\_\_\_\_\_  
Rudy E. Thorwirth  
Industry/Non-Public Arbitrator

April 5, 2005  
Signature Date

4/6/05  
Date of Service