

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Wallace Tilley and J & J Family Partnership, Ltd.

and

Case Number: 03-02871
Hearing Site: Houston, Texas

Names of Respondents

UBS Financial Services, Inc. and
Mark Knodel

NATURE OF DISPUTE

Customers v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Wallace Tilley and J & J Family Partnership, Ltd. ("**Claimants**") were represented by Kelly Greenwood, Esq., and Brian Turner, Esq., Heard, Robins, Cloud, Lubel & Greenwood, Austin, Texas.

UBS Financial Services, Inc. ("**UBS**") and Mark Knodel ("**Knodel**"), hereinafter collectively referred to as "Respondents," were represented by Charles Schwartz, Esq., Skadden, Arps, Slate, Meagher & Flom, Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about April 21, 2003. The Submission Agreement of Claimant, Wallace Tilley, was signed on or about April 14, 2003.

The Joint Statement of Answer was filed by Respondents, UBS Financial Services, Inc. and Mark Knodel, on or about June 27, 2003. The Submission Agreement of Respondent, UBS Financial Services, Inc., was signed on or about May 9, 2003. The Submission Agreement of Respondent, Mark Knodel, was signed on or about June 2, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty, negligence, failure to supervise, omission of facts, suitability, and misrepresentations. The causes of action related to the recommendations to set up a margin account, continue to hold a large majority of his assets in one stock (PGO), and to purchase Orbitex Info-Tech Communications Fund (Class A), Compaq, Convergent Communications, Orbitex Growth Fund (Class A), Orbitex Health and Biotechnology Fund (Class A). Claimants alleged that Respondents failed to disclose the risks involved with a margin account. In addition, Claimants alleged that Respondents recommended margin strategy without ever discussing Wallace Tilley's retirement plans, his anticipated expenses during retirement, or his children's anticipated educational expenses.

Unless specifically admitted in their Answer, Respondents, UBS Financial Services, Inc. and Mark Knodel, denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants' claims are barred by the doctrines of ratification, waiver and estoppel; Claimants have failed to mitigate their damages; Claimants have failed to state a claim on which relief can be granted; Claimants knowingly assumed the costs and risks associated with their investments and were capable of assuming those risks; the damages that Claimants allegedly suffered have no causal relationship to any acts committed by, or legally attributable to, UBS and Knodel; and to the extent Claimants' losses were caused by their own proportionate responsibility or negligence, their claims are barred in whole or in part.

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$1,300,000.00
Punitive/Exemplary Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs, attorneys' fees and expungement.

OTHER ISSUES CONSIDERED & DECIDED

Claimant, J & J Family Partnership, Ltd., did not file with the NASD Dispute Resolution a properly executed submission to arbitration but having answered the claim, appeared and

testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

Respondents made an oral Motion for Judgment as a Matter of Law at the final hearing. The Panel denied this motion. Respondents also orally requested an expungement of Mr. Knodel's record. The Panel denied this motion as well.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

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

- 1.) Claimants' claims, each and all, are hereby denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

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 = \$ 500.00

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 is UBS Financial Services, Inc.

Member surcharge = \$ 2,800.00

Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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 Panel x \$1,200.00	= \$ 1,200.00
Pre-hearing conference: October 27, 2003	1 session
Six (6) Hearing sessions x \$1,200.00	= \$ 7,200.00
Hearing Dates: October 4, 2004	2 sessions
October 5, 2004	2 sessions
October 6, 2004	2 sessions
Total Forum Fees	= \$ 8,400.00

The Arbitration Panel has assessed \$4,200.00 of the forum fees jointly and severally to Wallace Tilley and J & J Family Partnership, Ltd.

The Arbitration Panel has assessed \$4,200.00 of the forum fees to UBS Financial Services, Inc.

FEE SUMMARY

Claimants, Wallace Tilley and J & J Family Partnership, Ltd., are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 4,200.00
Total Fees	= \$ 4,700.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 3,000.00

Respondent, UBS Financial Services, Inc., is liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 4,200.00
Total Fees	= \$ 12,750.00
Less payments	= \$ 13,550.00
Refund Due Respondent UBS	= \$ 800.00

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

ARBITRATION PANEL

Charles E. Munson, Jr., JD - Public Arbitrator, Presiding Chair
Merrill Glasgow - Public Arbitrator
Kathy R. Holler - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Charles E. Munson, Jr., JD
Charles E. Munson, Jr., JD
Public Arbitrator, Presiding Chair

October 12, 2004
Signature Date

/s/ Merrill Glasgow
Merrill Glasgow
Public Arbitrator

October 12, 2004
Signature Date

/s/ Kathy R. Holler
Kathy R. Holler
Non-Public Arbitrator


October 11, 2004
Signature Date

October 12, 2004
Date of Service (For NASD office use only)

ARBITRATION PANEL

Charles E. Munson, Jr., JD - Public Arbitrator, Presiding Chair
Merrill Glasgow - Public Arbitrator
Kathy R. Holler - Non-Public Arbitrator

Concurring Arbitrators:


Charles E. Munson, Jr., JD
Public Arbitrator, Presiding Chair

10/12/04
Signature Date

Merrill Glasgow
Public Arbitrator

Signature Date

Kathy R. Holler
Non-Public Arbitrator

Signature Date

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ARBITRATION PANEL

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Merrill Glasgow - Public Arbitrator
Kathy R. Holler - Non-Public Arbitrator

Concurring Arbitrators:

Charles E. Munson, Jr., JD
Public Arbitrator, Presiding Chair

Signature Date



Merrill Glasgow
Public Arbitrator



Signature Date

Kathy R. Holler
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chair

Signature Date

Merrill Glasgow
Public Arbitrator

Signature Date



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Non-Public Arbitrator

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