

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Claimant

Frederick Scharer

v.

Case Number: 03-03044

Minneapolis, Minnesota

Respondents

UBS PaineWebber, Inc. and Michael Hack

Nature of Dispute: Customer v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Frederick Scharer ("**Claimant**") was represented by Robert C. Moilanen, Esq., Zimmerman Reed, P.L.L.P., Minneapolis, Minnesota.

UBS PaineWebber, Inc., ("**PaineWebber**") and Michael Hack ("**Hack**"), hereinafter referred to as "Respondents," were represented by Norman J. Baer, Esq., and Court J. Anderson, Esq., Anthony Ostlund & Baer, P.A. Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about May 14, 2003. The Uniform Submission Agreement of Frederick Scharer was signed on or about May 14, 2003.

The Statement of Answer was jointly filed by Respondents, UBS PaineWebber, Inc., and Michael Hack on or about July 10, 2003. A Uniform Submission Agreement was signed by Respondent, UBS PaineWebber, Inc., on or about July 2, 2003. A Uniform Submission Agreement was signed by Respondent, Michael Hack, on or about July 2, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract, negligence, failure to supervise and breach of fiduciary duty. Claimant asserted that the causes of action related to unsuitable investment in various technology and telecommunication stocks.

Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: ratification, estoppel, waiver, failure to state a claim upon which relief can be granted, lack of scienter, failure to mitigate, assumption of risk, and lack of causation.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

Actual/Compensatory Damages	\$ 40,000.00
Attorney's Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety, and that an award recommending an expungement of the claims asserted against Michael Hack be entered by the arbitrator.

OTHER ISSUES CONSIDERED & DECIDED

On or about August 31, 2004, the parties submitted a request for the issuance of a stipulated award reflecting an expungement of Michael Hack's CRD record of this matter.

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").

STIPULATED AWARD

Pursuant to the parties' agreement, and after considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrator orders as follows:

1. The Statement of Claim and all claims asserted therein are hereby dismissed with prejudice;
2. The arbitrator recommends the expungement of all reference to the above captioned arbitration from the registration records maintained by the NASD Central Registration Depository ("CRD"), concerning Respondent, Michael Hack, with the understanding that pursuant to NASD Notice to Members 99-09, Respondent, Michael Hack must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
3. Any arbitration fees incurred as a result of this Stipulated Award are to be paid in their entirety by Michael Hack; and

4. Any relief not specifically enumerated, including punitive damages and attorney 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 = \$ 175.00

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 PaineWebber Inc.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00

Forum Fees and Assessments

The Arbitrator assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$ 450.00

Pre-hearing conference: 11/06/03 1 session

Total Forum Fees = \$ 450.00

The Arbitrator has assessed \$ 225.00 of the forum fees to Claimant, Frederick Scharer.

The Arbitrator has assessed \$ 225.00 of the forum fees jointly and severally to Respondents, UBS Financial Services, Inc., and Michael E. Hack.

Fee Summary

Claimant, Frederick Scharer, is liable for:

<u>Initial Filing Fee</u>	= \$ 175.00
<u>Forum Fees</u>	= \$ 225.00
<u>Retention of Hearing Session Deposit Per Rule 10332 (f)</u>	= \$ 225.00
<u>Total Fees</u>	= \$ 625.00
<u>Less payments</u>	= \$ 850.00
<u>Balance Refunded to Claimant</u>	= \$ 225.00

Respondent, UBS PaineWebber, Inc., is liable for:

<u>Member Fees</u>	= \$ 2,625.00
<u>Total Fees</u>	= \$ 2,625.00
<u>Less payments</u>	= \$ 2,625.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondents, UBS PaineWebber, Inc., and Michael Hack, are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 225.00
<u>Total Fees</u>	= \$ 225.00
<u>Less payments</u>	= \$ 450.00
<u>Balance Refunded to Respondents</u>	= \$ 225.00

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

ARBITRATOR

James H. Colburn - Public Arbitrator, Presiding Chair

Arbitrators' Signature:

James H. Colburn
Public Arbitrator, Presiding Chair

Signature Date

Date of Service (For NASD office use only)

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ARBITRATOR

James H. Colburn - Public Arbitrator, Presiding Chair

Arbitrators' Signature:

James H. Colburn
James H. Colburn
Public Arbitrator, Presiding Chair

10/29/2004
Signature Date

10/29/04
Date of Service (For NASD office use only)