

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants
Pat and Joan Williamson

Case Number: 03-03285

Name of the Respondents
UBS Financial Services Inc.;
Edward M. Kerschner; and,
Allen J. Dogger

Hearing Site: Dallas, Texas

REPRESENTATION OF PARTIES

Claimants Pat and Joan Williamson, hereinafter collectively referred to as "Claimants": John W. Surgent, of Sterling Group Bancorp, LLC, located in Franklin Lakes, New Jersey.

Respondents UBS Financial Services Inc. ("UBS"); Edward M. Kerschner ("Kerschner"); and, Allen J. Dogger ("Dogger"), hereinafter collectively referred to as "Respondents": Corbet F. Bryant, Esq., of the firm of Carrington, Coleman, Sloman & Blumenthal, L.L.P., located in Dallas, Texas.

CASE INFORMATION

Statement of Claim filed: May 5, 2003.

Claimants signed the Uniform Submission Agreement: April 23, 2003.

Statement of Answer filed by Respondents on: July 25, 2003.

Respondent UBS signed the Uniform Submission Agreement: June 17, 2003.

Respondent Kerschner signed the Uniform Submission Agreement: September 1, 2003.

Respondent Dogger signed the Uniform Submission Agreement: June 30, 2003.

Respondent Kerschner's Motion to Dismiss filed: January 9, 2004.

Claimants' Response to Respondent Kerschner's Motion to Dismiss filed: February 4, 2004.

Respondent's Motion for Sanctions for Failure to Make Discovery filed: September 15, 2003.

Claimants' Response to Respondent's Motion for Sanctions for Failure to Make Discovery filed: October 8, 2003.

Respondents' Pre-Hearing Brief filed on: December 1, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: sale of unsuitable securities; misrepresentation and fraud; violation of Section 10(b) of the Securities Exchange Act and Rule

10b-5 promulgated thereunder; churning; breach of fiduciary duty; and failure to supervise/control person liability. The causes of action related to Respondents recommending and executing trades in unsuitable common stocks and option trading.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses:

1. There is no private cause of action for alleged violations of NASD or NYSE Rules;
2. The securities recommended were suitable and Dogger satisfied the "Know Your Customer" Rule;
3. None of the elements of statutory or common law fraud exist;
4. There was no churning in the accounts;
5. There was no breach of any fiduciary duty;
6. UBS appropriately supervised the accounts;
7. The Claimants waived any right to complain and are estopped;
8. Laches barred the Claimants' claims;
9. The Claimants failed to mitigate damages;
10. Kerschner did not have and did not violate any duty to the Claimants; and,
11. There is no legal basis for punitive damages.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	\$ 6,724,805.00
Punitive Damages	\$ 20,175,000.00
Interest	To be determined at hearing
Consulting Fees	In a reasonable amount
Other Costs	In a reasonable amount
Other Monetary/Non-Monetary Relief if any:	In a reasonable amount.

Respondents requested:

1. All claims against Kirschner be dismissed at an early stage as frivolous conclusionary allegations with no factual foundation;
2. All claims against Respondents be dismissed at a hearing of this matter;
3. An award be entered against the Claimants for all costs including reasonable and necessary attorneys' fees, hearing fees, assessments, expert fees and other arbitration costs.

OTHER ISSUES CONSIDERED AND DECIDED

The Respondents' Motion for Sanctions was found to be moot based upon the parties' assertions at the March 26, 2004 Initial Pre-hearing Conference that the parties were cooperating in discovery.

On or about April 1, 2004, the Panel, after review and consideration of Respondent Kerschner's Motion to Dismiss and all responsive documents, granted the Motion and dismissed all claims against Respondent Kerschner. Pursuant to the Order granting the Motion (made part of the Initial Pre-hearing Conference Scheduling Order), Claimants were ordered to pay Respondent Kerschner the sum of \$2,500.00 as attorneys' fees.

Near the conclusion of the third day of hearing, the Parties advised the Panel that they had reached a settlement. Therefore, the Panel took no further action regarding the claims asserted by Claimants Pat and Joan Williamson and because of the settlement, the claims are dismissed with prejudice. However, Respondent Dogger revised his relief requests and requested that the Panel expunge any record of this proceeding from his Central Registration Depository ("CRD") Record.

The Panel specifically finds that:

This Panel recognizes that expungement of a CRD record under any circumstances is an extraordinary remedy and should only be used when the expunged information has no meaningful regulatory or investor protection value. The Panel believes the criteria enumerated in NASD Rule 2130 for expungement is met in this situation.

The expungement is based on an affirmative determination by the Panel that Dogger was not involved in any alleged investment-related sales practice violation, forgery, theft misappropriation; or conversion of funds. The Panel believes Dogger to be a man of integrity and feels to leave these claims on the CRD record unfairly defames Dogger's character.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, as well as the representations of the parties made after settlement, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Pursuant to the settlement entered into by the parties, the claims asserted by Claimants in their Statement of Claim are dismissed with prejudice;
2. Consistent with the findings above, the Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Allen J. Dogger's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Allen J. Dogger must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
3. The parties shall bear their own costs of arbitration, including any attorneys' fees, except for those sums specifically enumerated herein; and,
4. Any and all relief not specifically addressed herein, including punitive damages, 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	= \$ 600.00
--------------------------	-------------

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 persons at the time of the events giving rise to the dispute. Accordingly, UBS Financial Services Inc. is a party and the following member fees are assessed:

Member surcharge	= \$ 3,750.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,500.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed: None.

Forum Fees and Assessments

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

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: November 1, 2004 1 session	
Two (1) Pre-hearing sessions with Panel @ \$1,200.00	= \$ 2,400.00
Pre-hearing conferences: March 26, 2004 1 session	
November 29, 2004 1 session	
Six (6) Hearing sessions @ \$1,200.00	= \$ 7,200.00
Hearing Dates: January 11, 2005 2 sessions	
January 12, 2005 2 sessions	
January 13, 2005 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$10,050.00

The Panel has assessed \$5,025 of the forum fees, jointly and severally, to Claimants Pat and Joan Williamson, and the remaining \$5,025.00 of the forum fees, jointly and severally, to Respondents UBS Financial Services Inc. and Allen J. Dogger

EEE SUMMARY

Claimants, Pat and Joan Williamson, are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
<u>Forum Fees</u>	= \$ 5,025.00
Total Fees	= \$ 5,625.00
<u>Less payments</u>	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 3,825.00

Respondent UBS Financial Services Inc. is solely liable for:

Member Fees	= \$10,000.00
<u>Less payments</u>	= \$10,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents UBS Financial Services Inc. and Allen J. Dogger are jointly and severally liable for:

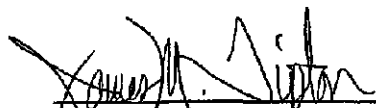
Forum Fees	= \$ 5,025.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 5,025.00

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

ARBITRATION PANEL

James M. Tipton, Ph.D -Public Arbitrator, Presiding Chairperson
William Ben Utley, III - Public Arbitrator
Robert E. Behrendt - Non-Public Arbitrator

Concurring Arbitrators' Signatures



James M. Tipton, Ph.D.
Public Arbitrator, Presiding Chairperson

1/21/2005

Signature Date

William Ben Utley, III
Public Arbitrator

Signature Date

Robert E. Behrendt
Non-Public Arbitrator

Signature Date

1/25/05 HAN Date of Service (For NASD Dispute Resolution office use only)

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 5,025.00
Total Fees	= \$ 5,625.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 3,825.00

Respondent UBS Financial Services Inc. is solely liable for:

Member Fees	= \$10,000.00
Less payments	= \$10,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents UBS Financial Services Inc. and Allen J. Dogger are jointly and severally liable for:

Forum Fees	= \$ 5,025.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 5,025.00

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


ARBITRATION PANEL

James M. Tipton, Ph.D -Public Arbitrator, Presiding Chairperson
William Ben Utley, III - Public Arbitrator
Robert E. Behrendt - Non-Public Arbitrator

Concurring Arbitrators' Signatures

James M. Tipton, Ph.D
Public Arbitrator, Presiding Chairperson

Signature Date



William Ben Utley, III
Public Arbitrator

1-24-2005

Signature Date

Robert E. Behrendt
Non-Public Arbitrator

Signature Date

1/25/05 R/E

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

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 5,025.00
Total Fees	= \$ 5,625.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 3,825.00

Respondent UBS Financial Services Inc. is solely liable for:

Member Fees	= \$10,000.00
Less payments	= \$10,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents UBS Financial Services Inc. and Allen J. Dogger are jointly and severally liable for:

Forum Fees	= \$ 5,025.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 5,025.00

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

ARBITRATION PANEL

James M. Tipton, Ph.D -Public Arbitrator, Presiding Chairperson
William Ben Utley, III - Public Arbitrator
Robert E. Behrendt - Non-Public Arbitrator

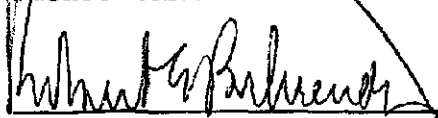
Concurring Arbitrators' Signatures

James M. Tipton, Ph.D
Public Arbitrator, Presiding Chairperson

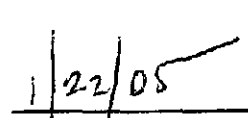
Signature Date

William Ben Utley, III
Public Arbitrator

Signature Date



Robert E. Behrendt
Non-Public Arbitrator



Signature Date

1/25/05 Man

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