

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

---

In the Matter of the Arbitration Between:

Names of the Claimants

David C. Brown  
Yukiko O. Brown

Case Number: 03-03399

Names of the Respondents

UBS PaineWebber  
Stephen Martin  
Wayne Dictor

Hearing Site: Tampa, Florida

---

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

**REPRESENTATION OF PARTIES**

For David C. Brown, and Yukiko O. Brown, hereinafter referred to as "Claimants": Michael B. Lynch, Esq., Hooper & Weiss, LLC, Orlando, Florida.

For UBS PaineWebber ("UBS"), Stephen Martin ("Martin"), and Wayne Dictor ("Dictor"), hereinafter collectively referred to as "Respondents": Ronald Shindler, Esq., Fowler White Burnett, P.A., Miami, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: May 21, 2003.

Claimants signed the Uniform Submission Agreement: April 17, 2003.

Statement of Answer filed by Respondents on or about: August 14, 2003.

Respondent UBS signed the Uniform Submission Agreement: September 2, 2003.

Respondents Martin and Dictor did not file executed Uniform Submission Agreements.

**CASE SUMMARY**

Claimants asserted the following causes of action: unsuitability; negligence; breach of fiduciary duty; breach of contract; respondeat superior; violation of NASD conduct rule; failure to supervise; and omissions/misrepresentation. The causes of action relate to Claimants' investments in the Enterprise Growth Fund, Intel stock, PW Health Sciences Fund, PW Technology Partners, and PW Private Equity Fund Class B.

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

**RELIEF REQUESTED**

Claimants requested an award of compensatory damages in their favor and against Respondents jointly and severally in the amount of \$538,146.00, punitive damages, attorneys' fees, costs and any other remedy deemed

just and equitable.

Respondents requested an award in their favor and against Claimants; dismissal of the Statement of Claim; costs and fees of this proceeding; costs and expenses of defending the claims, including reasonable attorneys' fees; expungement of this claim from the records of Respondents Dictor and Martin with the Central Registration Depository ("CRD") of the NASD; and such other and further relief as deemed just and proper.

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

On or about November 29, 2004, Claimants notified NASD Dispute Resolution that the matter was settled.

On or about December 22, 2004, Respondents filed with NASD Dispute Resolution a request that the arbitration panel enter a Stipulated Award expunging this proceeding from Respondents Martin and Dictor's CRD records (the "Request"), and a Stipulation for Entry of Arbitration Award.

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

Respondents Martin and Dictor did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, are bound by the determination of the Panel on all issues submitted.

### **AWARD**

After considering the pleadings, the Request and the Stipulation for Entry of Arbitration Award submitted by the parties, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel recommends that all references to the above-captioned arbitration be expunged from Respondents Martin's and Dictor's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Martin and Dictor must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, UBS is a member firm and a party.

Member surcharge = \$2,250.00

|                         |              |
|-------------------------|--------------|
| Pre-hearing process fee | = \$ 750.00  |
| Hearing process fee     | = \$4,000.00 |
| Total Member Fees       | = \$7,000.00 |

**Adjournment Fees**

No adjournment fees were assessed 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 assessed 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.

Three-day cancellation fees @ \$100.00 per arbitrator: = \$ 300.00

The Panel has assessed cancellation fees of \$150.00 to Claimants, jointly and severally.  
The Panel has assessed cancellation fees of \$150.00 to Respondents, jointly and severally.

**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 the Panel @ \$1,200.00 /session = \$1,200.00  
Pre-hearing conference: January 21, 2004 1 session

---

Total Forum Fees = \$1,200.00

The Panel has assessed forum fees of \$600.00 to Claimants, jointly and severally.  
The Panel has assessed forum fees of \$600.00 to Respondents, jointly and severally.

**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.

There were no administrative costs incurred in this matter.

Fee Summary

Claimants are jointly and severally liable for:

|   |                     |
|---|---------------------|
| Initial Filing Fee  | = \$ 375.00         |
| Three-day Cancellation Fee  | = \$ 150.00         |
| Forum Fees  | = \$ 600.00         |
| <u>Retained hearing session deposit pursuant to Rule 10332(f) of the Code</u> | <u>= \$ 600.00</u>  |
| Total Fees  | = \$1,725.00        |
| <u>Less Payments</u>  | <u>= \$1,725.00</u> |
| Balance Due NASD Dispute Resolution   | = \$ 00.00          |

Respondent UBS is solely liable for:

|                                     |                     |
|-------------------------------------|---------------------|
| Member Fees                         | = \$7,000.00        |
| Total Fees                          | = \$7,000.00        |
| <u>Less Payments</u>                | <u>= \$7,000.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 0.00           |

Respondents UBS, Martin and Dictor are jointly and severally liable for:


|                                     |                    |
|-------------------------------------|--------------------|
| Three-day Cancellation Fee          | = \$ 150.00        |
| Forum Fees                          | = \$ 600.00        |
| Total Fees                          | = \$ 750.00        |
| <u>Less Payments</u>                | <u>= \$ 750.00</u> |
| Balance Due NASD Dispute Resolution | = \$ .00           |

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

ARBITRATION PANEL

|                             |   |  |
|-----------------------------|---|--|
| Nicholas John Taldone, Esq. | - | Public Arbitrator, Presiding Chairperson |
| Robert J. Walter            | - | Public Arbitrator                        |
| Andrew G. Fellios           | - | Non-Public Arbitrator                    |

Concurring Arbitrators' Signatures

  
\_\_\_\_\_  
Nicholas John Taldone, Esq.  
Public Arbitrator, Presiding Chairperson

2/11/05  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Robert J. Walter  
Public Arbitrator

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

NASD Dispute Resolution

Arbitration No. 03-03399

Stipulated Award Page 4 of 4

Fee Summary

Claimants are jointly and severally liable for:

|   |                     |
|---|---------------------|
| Initial Filing Fee  | = \$ 375.00         |
| Three-day Cancellation Fee  | = \$ 150.00         |
| Forum Fees  | = \$ 600.00         |
| <u>Retained hearing session deposit pursuant to Rule 10332(f) of the Code</u> | <u>= \$ 600.00</u>  |
| Total Fees  | = \$1,725.00        |
| <u>Less Payments</u>  | <u>= \$1,725.00</u> |
| Balance Due NASD Dispute Resolution   | = \$ 00.00          |

Respondent UBS is solely liable for:

|                                     |                     |
|-------------------------------------|---------------------|
| <u>Member Fees</u>                  | <u>= \$7,000.00</u> |
| Total Fees                          | = \$7,000.00        |
| <u>Less Payments</u>                | <u>= \$7,000.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 0.00           |

Respondents UBS, Martin and Dictor are jointly and severally liable for:

|                                     |                    |
|-------------------------------------|--------------------|
| Three-day Cancellation Fee          | = \$ 150.00        |
| <u>Forum Fees</u>                   | <u>= \$ 600.00</u> |
| Total Fees                          | = \$ 750.00        |
| <u>Less Payments</u>                | <u>= \$ 750.00</u> |
| Balance Due NASD Dispute Resolution | = \$ .00           |

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

ARBITRATION PANEL

Nicholas John Taldone, Esq.

Robert J. Walter

Andrew G. Fellios

- Public Arbitrator, Presiding Chairperson

- Public Arbitrator

- Non-Public Arbitrator

Concurring Arbitrators' Signatures

Nicholas John Taldone, Esq.

Public Arbitrator, Presiding Chairperson

Signature Date

Feb 14, 2005

Signature Date

  
Robert J. Walter  
Public Arbitrator

## NASD Dispute Resolution

Arbitration No. 03-03399

**Stipulated Award Page 5 of 5**

Andrew G. Ellis

**Andrew G. Fellios**  
**Non-Public Arbitrator**

Signature Date 16 February 2008

Signature Date

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