

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

UBS Financial Services, Inc.

and

Case Number: 03-05493
Hearing Site: Houston, Texas

Name of Respondent

Ruben Mercado

NATURE OF DISPUTE

Member Firm v. Associated Person

REPRESENTATION OF PARTIES

UBS Financial Services, Inc. ("**Claimant**" or "**UBS Financial**") was represented by Brent A. Burns, Esq., of Davidson & Grannum, in Northvale, New Jersey.

Ruben Mercado ("**Respondent**" or "**Mercado**") of Houston, Texas, did not enter an appearance in this matter.

CASE INFORMATION

The Statement of Claim was filed on or about July 25, 2003.

The Submission Agreement of Claimant, UBS Financial Services, Inc., was signed on or about July 15, 2003.

Respondent, Mercado, did not file either a Submission Agreement or a Statement of Answer.

CASE SUMMARY

Claimant alleges a failure to repay a promissory note. In or around June 2000, UBS Financial Services, Inc. hired Mercado as a Financial Advisor in its Houston/Heritage, Texas branch office. In connection with Mercado's hire, UBS Financial advanced to Mercado as a loan the sum of \$62,027.00. This loan was memorialized in a promissory note entitled, Promissory Note #10561 ("Note"). Note #10561 provides that if Mercado's

employment should terminate, whether voluntarily or involuntarily, no part of the unpaid Principal Amount shall be forgiven. Mercado resigned prior to the second forgiveness date of Note #10561. One of the four equal, annual installments of this loan, or \$15,506.75, was forgiven. According to the Claimant, the amount of the principal outstanding on Note #10561 on the date of Mercado's voluntary resignation from UBS Financial was \$46,520.25. As a result, the amount due decreased to \$46,520.25 and remains due and owing to UBS Financial.

Note #10561 further provided that should Mercado default in the timely payment of any portion of the principal amount, Mercado is obligated to pay interest on any such outstanding amount. Also, Note #10561 provides that should UBS Financial be required to enforce any and all provisions, Mercado is obligated to pay any and all costs and expenses, including, without limitation, reasonable attorney's fees and disbursements incurred by UBS Financial.

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory	\$46,520.25
Interest	Unspecified
Attorney's Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

OTHER ISSUES CONSIDERED & DECIDED

By letter dated April 28, 2004, Claimant opted to proceed against Respondent Mercado pursuant to Rule 10314(e) of the NASD Code of Arbitration Procedure ("Code").

The arbitrator determined that Respondent Mercado was properly served notice of the Statement of Claim and Notification of the Arbitrator by certified mail, and that Respondent Mercado is required to submit to arbitration pursuant to the Code and is bound by the determination of the Arbitrator on all issues submitted. In addition, the arbitrator determined that Respondent, Mercado, is barred from presenting any Answer, facts, arguments or defenses to the Statement of Claim and resulting award.

AWARD

The undersigned arbitrator has decided and determined in full and final resolution of the issues for determination as follows:

- 1.) Respondent, Ruben Mercado, is liable for and shall pay to Claimant, UBS Financial Services, Inc., the sum of \$46,520.25 in compensatory damages;
- 2.) Respondent, Ruben Mercado, is liable for and shall pay to Claimant, UBS Financial Services, Inc., interest at 6% on the above-stated sum, pursuant to the terms of the Promissory Note. The interest is to begin accruing on July 31, 2001 and to cease when paid in full or otherwise discharged;
- 3.) Respondent, Ruben Mercado, is liable for and shall pay to Claimant, UBS Financial Services, Inc., the sum of \$4,335.84 in attorneys fees pursuant to the terms of the Promissory Note;
- 4.) Respondent, Ruben Mercado, is liable for and shall pay to Claimant, UBS Financial Services, Inc., the sum of \$2,625.00 in costs pursuant to the terms of the Promissory Note; and
- 5.) Any relief not specifically enumerated, including punitive damages, 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 = \$1000.00

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	= \$ 875.00
Pre-hearing process fee	= \$ 750.00

Forum Fees and Assessments

The Arbitrator assesses a forum fee for an Award issued under the Default Proceedings. Fees associated with these proceedings are:

One (1) Pre-hearing session with Arbitrator x \$450.00	= \$450.00
Pre-hearing conference: April 22, 2004 1 session	
Default Proceedings	= \$300.00
<hr/> Total Forum Fees	<hr/> = \$750.00

The Arbitration Panel has assessed \$750.00 of the forum fees to Ruben Mercado.

FEE SUMMARY

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

Initial Filing Fee	= \$ 1000.00
Member Fees	= \$ 1625.00
Total Fees	= \$ 2625.00
Less payments	= \$ 3075.00
Refund Due from NASD Dispute Resolution	= \$ 450.00

Respondent, Ruben Mercado, is liable for:

Forum Fees	= \$ 750.00
Total Fees	= \$ 750.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 750.00

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

ARBITRATOR

Charles E. Marin, CPA— Industry Arbitrator, Presiding Chair

Arbitrator:

/s/ Charles E. Martin, CPA
Charles E. Martin, CPA
Industry Arbitrator, Presiding Chair

June 2, 2004
Signature Date

June 2, 2004
Date of Service (For NASD office use only)

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ARBITRATOR

Charles E. Marin, CPA— Industry Arbitrator, Presiding Chair

Arbitrator:

Charles E Martin

Charles E. Martin, CPA
Industry Arbitrator, Presiding Chair

6-2-04

Signature Date

Date of Service (For NASD office use only)