

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Washburne Capital Master Fund, Ltd., Washburne Capital Management, L.P., Washburne Capital Offshore Fund, Ltd., Washburne Capital Management, LLC (Claimants) v. ABN AMRO Securities, LLC, ABN AMRO Incorporated, ABN AMRO Bank N.V., UBS Securities LLC, and UBS Financial Services, Inc. (Respondents)

Case Number: 03-07632

Hearing Site: New York, New York

Nature of the Dispute: Customers and Member vs. Members and Non-Members.

REPRESENTATION OF PARTIES

Claimants Washburne Capital Master Fund, Ltd. ("Capital Master"), Washburne Capital Management, L.P. ("Capital Management"), Washburne Capital Offshore Fund, Ltd. ("Capital Offshore"), Washburne Capital Management, LLC ("Washburne Capital") hereinafter collectively referred to as "Claimants": Seth P. Washburne, Washburne Capital Management, L.P., New York, NY.

Respondents ABN AMRO Securities, LLC ("ABN Securities"), ABN AMRO Incorporated ("ABN, Inc."), ABN AMRO Bank N.V. ("ABN Bank") hereinafter collectively referred to as "the ABN Respondents": Lyle S. Zuckerman, Esq., Kauff McClain & McGuire LLP, New York, NY. Respondents ABN Securities, ABN, Inc., and ABN Bank were previously represented by Jordan Becker, Esq., Paduano and Weintraub, New York, NY.

Respondents UBS Securities LLC ("UBS Securities") and UBS Financial Services, Inc. ("UBS Financial") hereinafter collectively referred to as "the UBS Respondents": Joel M. Miller, Esq., Miller and Wrubel, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: October 23, 2003.
Amended Statement of Claim filed on or about: August 11, 2004.
Capital Master signed the Uniform Submission Agreement: October 23, 2003.
Capital Management signed the Uniform Submission Agreement: October 23, 2003.
Capital Offshore signed the Uniform Submission Agreement: October 23, 2003.
Washburne Capital signed the Uniform Submission Agreement: October 23, 2003.

Statement of Answer filed by Respondent ABN Securities on or about: April 16, 2004.
Joint Statement of Answer filed by the ABN Respondents on or about: October 7, 2004.
ABN Securities did not sign the Uniform Submission Agreement.
ABN, Inc., did not sign the Uniform Submission Agreement.
ABN Bank did not sign the Uniform Submission Agreement.

Joint Statement of Answer filed by the UBS Respondents on or about: April 16, 2004.
UBS Financial signed the Uniform Submission Agreement: April 29, 2004.
UBS Securities did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract; negligence; breach of fiduciary duty; misrepresentations/non-disclosures; material misrepresentations made to induce transfer of trading accounts; and, omission of facts. Claimants' claims involve hard-to-borrow-securities and commission reductions based upon trading volume and other services and capabilities.

In its Amended Statement of Claim, Claimants added the following Respondents: ABN, Inc., ABN Bank and UBS Securities.

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

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$2,866,110.00, punitive damages in the amount of \$8,598,330.00, interest, costs, attorney's fees, and such other relief as the Panel may deem just and proper.

The ABN Respondents requested that Claimants' claims be dismissed in their entirety.

The UBS Respondents requested that Claimants' claims be dismissed in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents ABN Securities and ABN Inc., did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and having answered the claim, are bound by the determination of the Panel on all issues submitted.

Respondents ABN Bank and UBS Securities did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but having answered the claim, are bound by the determination of the Panel on all issues submitted.

On or about February 23, 2005, the Panel considered ABN Bank's Motion to Dismiss and all responses thereto, and determined to dismiss ABN Bank with prejudice from this arbitration.

On or about July 6, 2005, the Panel considered UBS Financial and UBS Securities' Motion to Dismiss and all responses thereto, and determined to dismiss UBS Financial and UBS Securities with prejudice from this arbitration.

The Parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

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

1. Claimants' claims are dismissed in their entirety.
2. 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 | = \$ 5,000.00 |
|--------------------------|---------------|

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, Washburne Capital Management, LLC, UBS Financial Services, Inc., ABN AMRO, Inc., and ABN AMRO Securities, LLC are parties.

| | |
|-------------------------|---------------|
| 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:

| | | |
|----------------------------------------------------------------------|---|--------|
| June 20, 2006 adjournment by Respondents ABN AMRO and ABN Securities | = | Waived |
|----------------------------------------------------------------------|---|--------|

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A 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:

| | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| Two (2) Decisions on discovery-related motions on the papers with (3) three arbitrators @ \$600.00 Claimants submitted (2) discovery-related motions | = \$1,200.00 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|

Six (6) Pre-hearing conference sessions with Panel @ \$1,200.00 per session

| | | | |
|-------------------------|-------------------|-----------|---------------|
| Pre-hearing conference: | July 7, 2004 | 1 session | = \$ 7,200.00 |
| | July 19, 2004 | 1 session | |
| | June 1, 2005 | 1 session | |
| | July 6, 2005 | 1 session | |
| | December 30, 2005 | 1 session | |
| | June 20, 2006 | 1 session | |

Eleven (11) Hearing sessions with Panel @ \$1,200.00 per session = \$ 13,200.00

| | | |
|-----------|--------------------|------------|
| Hearings: | January 10, 2006 | 2 sessions |
| | August 16, 2006 | 1 session |
| | September 19, 2006 | 2 sessions |
| | September 20, 2006 | 2 sessions |
| | October 10, 2006 | 2 sessions |
| | October 11, 2006 | 2 sessions |

Total Forum Fees = \$21,600.00

1. The Panel has assessed \$6,600.00 of the forum fees jointly and severally against the Claimants.
2. The Panel has assessed \$15,000.00 of the forum fees jointly and severally against Respondents ABN Securities and ABN Inc.

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.

1. Claimants requested duplication of eight tapes @ \$15.00 per tape = \$120.00
2. Respondents ABN AMRO and ABN Securities requested duplication of seven tapes @ \$15.00 per tape = \$105.00

Fee Summary

1. Claimants are jointly and severally liable for:

| | |
|-------------------------------------|---------------|
| Initial Filing Fee | = \$ 5,000.00 |
| Administrative Costs | = \$ 120.00 |
| Forum Fees | = \$ 6,600.00 |
| Total Fees | = \$11,720.00 |
| Less payments | = \$ 6,320.00 |
| Balance Due NASD Dispute Resolution | = \$ 5,400.00 |
2. Claimant Washburne Capital Management is solely liable for:

| | |
|-------------------------------------|---------------|
| Member Fees | = \$10,000.00 |
| Total Fees | = \$10,000.00 |
| Less payments | = \$ 3,750.00 |
| Balance Due NASD Dispute Resolution | = \$ 6,250.00 |

3. Respondent UBS Financial is solely liable for:

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

4. Respondent ABN Securities is solely liable for:

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

5. Respondent ABN, Inc., is solely liable for:

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

6. Respondents ABN Securities and ABN Inc., are jointly and severally liable for:

| | |
|-------------------------------------|---------------|
| Forum Fees | = \$15,000.00 |
| <u>Administrative Costs</u> | = \$ 105.00 |
| <u>Total Fees</u> | = \$15,105.00 |
| <u>Less payments</u> | = \$ 5,500.00 |
| Balance Due NASD Dispute Resolution | = \$ 9,605.00 |

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

ARBITRATION PANEL

| | | |
|-----------------------|---|------------------------------------------|
| S. Charles Tabak, JD | - | Public Arbitrator, Presiding Chairperson |
| Joseph F. Kelley | - | Public Arbitrator |
| Harry D. Frisch, Esq. | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this is which is my award.


S. Charles Tabak, JD
Public Arbitrator, Presiding Chairperson

10/25/06
Signature Date

Joseph F. Kelley
Public Arbitrator

Signature Date

Harry D. Frisch, Esq.
Non-Public Arbitrator

Signature Date

October 25, 2006
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

| | | |
|-----------------------|---|------------------------------------------|
| S. Charles Tabak, JD | - | Public Arbitrator, Presiding Chairperson |
| Joseph F. Kelley | - | Public Arbitrator |
| Harry D. Frisch, Esq. | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this is which is my award.

S. Charles Tabak, JD
Public Arbitrator, Presiding Chairperson

Signature Date


Joseph F. Kelley
Public Arbitrator

11/08/06
Signature Date

Harry D. Frisch, Esq.
Non-Public Arbitrator

Signature Date

October 25, 2006
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

| | | |
|-----------------------|---|------------------------------------------|
| S. Charles Tabak, JD | - | Public Arbitrator, Presiding Chairperson |
| Joseph F. Kelley | - | Public Arbitrator |
| Harry D. Frisch, Esq. | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures


I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this is which is my award.

S. Charles Tabak, JD
Public Arbitrator, Presiding Chairperson

Signature Date

Joseph F. Kelley
Public Arbitrator

Signature Date



Harry D. Frisch, Esq.
Non-Public Arbitrator

10/20/2006
Signature Date

October 25, 2006

Date of Service (For NASD Dispute Resolution use only)