

**STIPULATED AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Wataru & Helen M. Tanita, individually and as trustees of The Tanita Family Trust

and

03-09105  
Phoenix, Arizona

Name of Respondents

UBS Financial Services Inc. f/k/a UBS PaineWebber, Inc.  
Ronald R. Willoughby

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

**REPRESENTATION OF PARTIES**

Wataru & Helen M. Tanita, individually and as trustees of The Tanita Family Trust ("**Claimant**") was represented by Paul J. Roshka, Jr., Esq., Roshka Heyman & DeWulf, P.C., Phoenix, Arizona.

UBS Financial Services Inc. f/k/a UBS PaineWebber, Inc. ("**Respondent UBS**") and Ronald R. Willoughby ("**Respondent Willoughby**") (collectively as "**Respondents**") were represented by Jesse B. Simpson, Esq., Lewis and Roca LLP, Phoenix, Arizona.

**CASE INFORMATION**

The Statement of Claim was filed on or about December 24, 2003. Submission Agreement of Claimant Wataru & Helen M. Tanita, individually and as trustees of The Tanita Family Trust was signed on December 18, 2003.

Statement of Answer was filed by Respondents UBS Financial Services Inc. f/k/a UBS PaineWebber, Inc. Ronald R. Willoughby on or about March 15, 2004. Submission Agreement of Respondent UBS Financial Services Inc. f/k/a UBS PaineWebber, Inc. was signed on March 3, 2004. Submission Agreement of Respondent Ronald R. Willoughby was signed on March 18, 2004.

**CASE SUMMARY**

Claimant asserted claims against Respondents for common law fraud, negligent misrepresentation, negligence, breach of fiduciary duty, breach of contract, negligent supervision, violations of

Arizona's securities statutes, and violations of the Arizona Investment Management Act, in connection with Claimant's investments with Respondents.

Respondents denied the allegations set forth in the Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested an award in the amount of \$150,000.00, unspecified punitive damages, interest, costs, and attorneys' fees.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

The parties advised NASD Dispute Resolution that they entered into an agreement to settle this matter on certain terms and conditions set forth in a confidential settlement agreement.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies. The parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

### **AWARD**

After considering the pleadings and the stipulation of the parties, but without making any findings of fact or conclusions of law, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination and find as follows:

1. The claims asserted in this matter are dismissed with prejudice.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Ronald R. Willoughby'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 Ronald R. Willoughby must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.

4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

### **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 = \$300.00

#### **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. In this matter, the member firm(s) is UBS Financial Services Inc. f/k/a UBS PaineWebber, Inc.

Member surcharge	\$	1,700.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	2,750.00
Total Member Fees	\$	5,200.00

#### **Forum Fees and Assessments**

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

1 Pre-hearing session(s) with Panel	x	1,125.00	\$	1,125.00
June 25, 2004	1	session		
Total Forum Fees			\$	1,125.00

The Arbitration Panel has assessed \$562.50 of the forum fees to Wataru & Helen M. Tanita, individually and as trustees of The Tanita Family Trust.

The Arbitration Panel has assessed \$562.50 of the forum fees jointly and severally to UBS Financial Services Inc. f/k/a UBS PaineWebber, Inc. and Ronald R. Willoughby.

**Fee Summary**

Claimant, Wataru & Helen M. Tanita, individually and as trustees of The Tanita Family Trust is liable for and shall pay:

Initial Filing Fee	= \$	300.00
Retained Hearing Session Deposit pursuant to Rule 10332(g)	= \$	562.50
<u>Forum Fees</u>	= \$	562.50
Total Fees	= \$	1,425.00
<u>Less payments</u>	= \$	-1,425.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondent, UBS Financial Services Inc. f/k/a UBS PaineWebber, Inc., is liable for and shall pay:

Member Fees	= \$	5,200.00
Total Fees	= \$	5,200.00
<u>Less payments</u>	= \$	-5,200.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, UBS Financial Services Inc. f/k/a UBS PaineWebber, Inc. and Ronald R. Willoughby are jointly and severally liable for and shall pay:

<u>Forum Fees</u>	= \$	562.50
Total Fees	= \$	562.50
<u>Less payments</u>	= \$	-562.50
Balance Due NASD Dispute Resolution	= \$	0.00

**All balances are due to NASD Dispute Resolution**

**ARBITRATION PANEL**

Jerome K. Altshuler - Public Arbitrator, Presiding Chair  
Daniel J. Danvir - Public Arbitrator  
Gary L. Freeman - Non-Public Arbitrator

NASD Dispute Resolution  
Arbitration No. 03-09105  
Stipulated Award Page 5 of 5

Concurring Arbitrators:

/s/ Jerome K. Altshuler  
Jerome K. Altshuler  
Public Arbitrator, Presiding Chair

September 2, 2005  
Signature Date

/s/ Daniel J. Danvir  
Daniel J. Danvir  
Public Arbitrator

September 4, 2005  
Signature Date

/s/ Gary L. Freeman  
Gary L. Freeman  
Non-Public Arbitrator

September 2, 2005  
Signature Date

9/15/05  
Date of Service (For NASD office use only)

Concurring Arbitrators:

Jerome K. Altshuler

Jerome K. Altshuler  
Public Arbitrator, Presiding Chair

Sept 2, 2005

Signature Date

Daniel J. Danvir  
Public Arbitrator

Signature Date

Gary L. Freeman  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

Concurring Arbitrators:

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Public Arbitrator, Presiding Chair

*Daniel J. Danvir*  
Daniel J. Danvir  
Public Arbitrator

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Gary L. Freeman  
Non-Public Arbitrator

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Signature Date

*Sept. 4, 2005*  
Signature Date

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Signature Date

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NASD Dispute Resolution  
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9/2/05  
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Signature Date

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