
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
UBS Financial Services, Inc.

Case Number: 04-00249

Names of the Respondents
John D. Santi, Sr.
Jonathan A. Barrack
Jonathan Bell
Kathy H. Briner
Jason J. Fair
Larry J. Goldsmith
Charles G. Hughes
Stanford Group Company

Hearing Site: Memphis, Tennessee

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

REPRESENTATION OF PARTIES

For UBS Financial Services, Inc. ("UBS"), hereinafter referred to as "Claimant": James L. Komie, Esq. and Michael D. Lee, Esq., Schuyler, Roche & Zwirner, P.C., Chicago, Illinois.

For John D. Santi, Sr. ("Santi"), Jonathan A. Barrack ("Barrack"), Jonathan Bell ("Bell"), Kathy H. Briner ("Briner"), Jason J. Fair ("Fair"), Larry J. Goldsmith ("Goldsmith"), Charles G. Hughes ("Hughes"), and Stanford Group Company ("Stanford"), hereinafter collectively referred to as "Respondents": Christopher P. Stief, Esq. and Risa B. Greene, Esq., Saul Ewing LLP, Philadelphia, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on or about: January 15, 2004.

Claimant signed the Uniform Submission Agreement: January 14, 2004.

Answer and Counterclaim of Respondents Santi, Barrack, Bell, Briner, Fair, Goldsmith, and Hughes filed on or about: March 1, 2004.

Answer and Counterclaim of Respondent Stanford filed on or about: March 1, 2004.

Answer of Claimant UBS to Respondents' Counterclaims filed on or about: October 28, 2004.

Respondent Santi signed the Uniform Submission Agreement: January 28, 2004.

Respondent Barrack did not file an executed Uniform Submission Agreement.

Respondent Bell signed the Uniform Submission Agreement: January 23, 2004.

Respondent Briner signed the Uniform Submission Agreement: January 26, 2004.

Respondent Fair signed the Uniform Submission Agreement: January 26, 2004.

Respondent Goldsmith signed the Uniform Submission Agreement: April 15, 2004.

Respondent Hughes signed the Uniform Submission Agreement: January 23, 2004.

Respondent Stanford signed the Uniform Submission Agreement: January 29, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract – injunction; inducement by Respondent Stanford of breach of contract; misappropriation of Claimant's trade secrets; breach of fiduciary duties owed to Claimant; inducement by Respondent Stanford of Respondent Santi, Barrack, Bell, Briner, Fair, Goldsmith and Hughes' breach of their fiduciary duties; conversion of Claimant's property; unfair competition; breach of contract – trainee agreement costs as to Respondent Bell; and, breach of contract – unpaid promissory note balance as to Respondent Fair. The causes of action relate to the *en masse* resignation of Respondents Santi, Barrack, Bell, Briner, Fair, Goldsmith and Hughes and their subsequent affiliation with Respondent Stanford.

Unless specifically admitted in their Answers, Respondents Santi, Barrack, Bell, Briner, Fair, Goldsmith and Hughes (collectively "Individual Respondents") denied the allegations made in the Statement of Claim and asserted various affirmative defenses. Additionally, the Individual Respondents asserted the following counterclaims: defamation; interference with business and contractual relationships; and, unfair competition. Respondent Stanford filed a separate Answer and Counterclaims, in which it joined in the Answer and Counterclaims of the Individual Respondents.

Unless specifically admitted in its Answer to Respondents' Counterclaims, Claimant denied the allegations made in the Counterclaims, and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested that the undersigned arbitrators (the "Panel"):

- A. Enter a permanent injunction restraining and enjoining Respondents, and all persons acting in concert with them (including, but not limited to, any officer, employee, agent or other representative of Respondent Stanford), from directly or indirectly:
 1. Soliciting any business from any client or customer whom the individual Respondents served during their employment with Claimant, or any other customer or client of Claimant whose name became known to the Individual Respondents while in the employ of Claimant;
 2. Using, disclosing, or transmitting for any purpose (including but not limited to solicitation of said clients), any information contained in the records of Claimant, including but not limited to the names, addresses, and financial information of said clients; and,
 3. Requiring Respondents to return to Claimant as promptly as possible all originals, copies or other reproductions, in any form whatsoever, of any record of Claimant, and to purge or destroy any computerized record of Claimant that is within their possession, custody or control.
- B. Enter an appropriate Award in favor of Claimant and against Respondents, jointly and severally, of compensatory damages in such amount as may be justified by the evidence;
- C. Provide an appropriate amount in the Award of pre-award and post-award interest

at the maximum rates authorized by law;

- D. Include in the Award an appropriate amount of punitive damages;
- E. Enter an Award in favor of Claimant and against Respondent Bell in the amount of \$40,000.00, plus interest, as may be justified by the evidence;
- F. Enter an Award in favor of Claimant and against Respondent Fair in the amount of \$15,493.67, plus interest, as may be justified by the evidence;
- G. Award Claimant all costs and expenses incurred in connection with this action pursuant to the terms of the parties' agreements, including its reasonable attorneys' fees; and,
- H. Grant Claimant such other and further relief as the Panel deemed to be just and equitable.

Claimant further requested that the Panel issue an Award against all Respondents on their counterclaims and deny Respondents any relief.

Respondents collectively requested compensatory and punitive damages in an amount to be proven in arbitration, including trebled damages in accordance with Tennessee Code Section 47-50-109.

Respondent Stanford further requested that the Panel issue an Award denying all of Claimant's claims for relief, granting Respondent Stanford's Counterclaims and request for compensatory and punitive damages, assessing forum fees and costs against Claimant, and awarding any other relief the Panel deemed just and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Barrack did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

During the evidentiary hearing, Claimant represented to the Panel that it had settled its claim of breach of contract relating to an unpaid promissory note balance of \$15,493.67 against Respondent Fair. All other claims against Respondent fair remained.

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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims against Respondents Briner and Goldsmith are dismissed, with prejudice, in their entirety.

Respondents Santi, Barrack, Bell, Fair, Hughes and Stanford are jointly and severally liable and shall pay to Claimant compensatory damages in the amount of \$750,000.00, pre-judgment interest denied.

Respondents' Counterclaims are dismissed in their entirety, with prejudice.

The Panel recommends the expungement of all references to the above captioned arbitration from Respondents Barrack, Bell, Briner, Fair, Goldsmith, and Hughes' 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, Respondents Barrack, Bell, Briner, Fair, Goldsmith, and Hughes must obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive.

Any and all claims for relief not specifically addressed herein, including the parties' respective requests for punitive damages and Respondents' requests for treble damages, are 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	= \$ 500.00
Counterclaim filing fee	= \$ 500.00

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, Respondents UBS and Stanford are member firms and parties.

Claimant UBS' Member surcharge	= \$1,500.00
Claimant UBS' Pre-hearing process fee	= \$ 750.00
Claimant UBS' Hearing process fee	= \$2,200.00
Claimant UBS' Total Member Fees	= \$4,450.00

Respondent Stanford's Member surcharge	= \$1,500.00
Respondent Stanford's Pre-hearing process fee	= \$ 750.00
Respondent Stanford's Hearing process fee	= \$2,200.00
Respondent Stanford's Total Member Fees	= \$4,450.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

October 26-29, 2004, adjournment by Claimant. The Panel waived the adjournment fee in the amount of \$1,000.00.

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:

No three-day cancellation fees were assessed during these proceedings.

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.

Injunctive Relief Surcharge = \$2,500.00

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:

Two (2) Pre-hearing sessions with the Panel @ \$1,000.00/session = \$ 2,000.00

Pre-hearing conferences: June 15, 2004 1 session
December 14, 2004 1 session

Fifteen (15) Hearing sessions @ \$1,000.00/session = \$15,000.00

Hearing Dates: May 16, 2005 2 sessions
May 17, 2005 2 sessions
May 18, 2005 2 sessions
May 19, 2005 2 sessions
May 20, 2005 2 sessions
November 1, 2005 2 sessions
November 2, 2005 2 sessions
November 3, 2005 1 session

Total Forum Fees = \$17,000.00

The Panel has assessed the total forum fees in the amount of \$17,000.00 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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

Fee Summary

Claimant UBS is solely liable for:

Initial Filing Fee	= \$ 500.00
Injunctive Relief Fee	= \$ 2,500.00
<u>Member Fees</u>	= \$ 4,450.00
Total Fees	= \$ 7,450.00
<u>Less payments</u>	= \$ 7,450.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Stanford is solely liable for:

<u>Member Fees</u>	= \$ 4,450.00
Total Fees	= \$ 4,450.00
<u>Less payments</u>	= \$ 4,450.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

Counterclaim Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$17,000.00
Total Fees	= \$17,500.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$17,500.00

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

ARBITRATION PANEL

Robert J. Warner, Jr., LLB	- Public Arbitrator, Presiding Chairperson
Charles Durham Reaves	- Public Arbitrator
George A. Sawyer	- Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/
Robert J. Warner, Jr. LLB
Public Arbitrator, Presiding Chairperson

Signature Date

_____/s/
Charles Durham Reaves
Public Arbitrator

Signature Date

_____/s/
George A. Sawyer
Non-Public Arbitrator

Signature Date

November 17, 2005
Date of Service (For NASD Dispute Resolution use only)

NASD Dispute Resolution

Arbitration No. 04-00249

Award Page 6Fee Summary

Claimant UBS is solely liable for:

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Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Stanford is solely liable for:

<u>Member Fees</u>	<u>= \$ 4,450.00</u>
Total Fees	= \$ 4,450.00
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George A. Sawyer

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures


Robert J. Warner, Jr. LLB
Public Arbitrator, Presiding Chairperson

11/16/05
Signature Date

Charles Durham Reaves
Public Arbitrator

Signature Date

George A. Sawyer
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution

Arbitration No. 04-00249

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- Public Arbitrator
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Robert J. Warner, Jr. LLB

Public Arbitrator, Presiding Chairperson

Signature Date



Charles Durham Reaves

Public Arbitrator

11/16/05
Signature Date

George A. Sawyer

Non-Public Arbitrator

Signature Date

NASD Dispute Resolution
Arbitration No. 04-00249
Award Page 6

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 Robert J. Warner, Jr. LLB
 Public Arbitrator, Presiding Chairperson

 Signature Date

 Charles Durham Reaves
 Public Arbitrator

 Signature Date



 George A. Sawyer
 Non-Public Arbitrator

NOV. 16, 2005

 Signature Date