

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 04-00619

W. Wells Van Pelt, Jr.

Name of the Respondents

Hearing Site: Charlotte, North Carolina

UBS Financial Services, Inc.
Michael Richard Williams

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

REPRESENTATION OF PARTIES

Claimant, W. Wells Van Pelt, Jr., hereinafter referred to as "Claimant", was represented by Sarah G. Anderson, Esq., Clauson & Staubes, LLC, Charleston, South Carolina.

Respondents, UBS Financial Services, Inc. ("UBS") and Michael Williams ("Williams"), hereinafter collectively referred to as "Respondents", were represented by William L. Sitton, Jr., Esq., KMZ Rosenman, Charlotte, North Carolina.

CASE INFORMATION

Statement of Claim filed on January 28, 2004.

Claimant signed the Uniform Submission Agreement on January 21, 2004.

Statement of Answer, Counterclaim, and Motion to Dismiss filed by Respondents on April 20, 2004.

Respondent Williams signed the Uniform Submission Agreement on March 26, 2004.

A representative of Respondent UBS executed the Uniform Submission Agreement on April 19, 2004.

Claimant's Answer to the Counterclaim was filed on May 27, 2005.

Claimant's Memorandum in Opposition to Respondents' Motion to Dismiss was filed on June 4, 2004.

Respondents' Reply Brief in Support of the Motion to Dismiss was filed on July 20, 2004.

Claimant's Response to Reply Brief Concerning the Motion to Dismiss was filed on August 4, 2004.

CASE SUMMARY

Claimant asserted the following causes of action, among others: wrongful termination; defamation; intentional interference with prospective contractual relations; breach of N.C. Wages and Hours Act; violation of Age Discrimination in Employment Act of 1967 (against Respondent UBS only); tortious interference with contractual relationships; breach of duty of good faith and

fair dealing; conversion; civil conspiracy; and negligent infliction of emotional distress. The causes of action relate to Claimant's termination by Respondent UBS.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: no claim for wrongful termination of an at-will employee is permitted under North Carolina law; the information set forth in Claimant's Form U-5 is true because Claimant breached UBS's policy and NYSE rules, and Claimant released Respondent UBS from liability for information reported in his Form U-5 in the Form U-4 he signed with his new employer; no claim for intentional interference with prospective contractual relations is permitted under North Carolina law; Claimant received all of the compensation to which he was entitled and he owes Respondent UBS money pursuant to the terms of an Employee Forgivable Loan ("EFL"); Claimant's age discrimination claim fails to state an allegation of or provide evidence of age bias; the customers in question had a contractual relationship with Respondent UBS, not with Claimant; no claim is permitted under North Carolina law for civil conspiracy; and, the Statement of Claim does not allege severe and disabling emotional condition that was diagnosed and treated by a medical professional as required under North Carolina law.

Respondent UBS asserted the following causes of action in its Counterclaim, among others: breach of repayment provision of EFL; breach of non-solicitation provision of EFL; tortious interference with contract; and violation of North Carolina's Unfair and Deceptive Practices Act. The causes of action relate to Claimant's employment with and termination from Respondent UBS.

Unless specifically admitted in his Answer, Claimant denied the allegations made in the Counterclaim and asserted the following defenses, among others: Claimant's obligations under the EFL were discharged as a result of Respondent UBS's wrongful termination of Claimant; the non-solicitation provision of the EFL is void and unenforceable because of Respondent UBS's wrongful termination of Claimant; the customers in questions belonged to Claimant, not Respondent UBS; and North Carolina's Unfair and Deceptive Practices Act in general does not apply to employer-employee relationships.

RELIEF REQUESTED

Claimant requested damages of \$12,316,770 based upon the following components: (1) loss of income in the amount of \$3,916,497; (2) premature withdrawals from retirement plans in the amount of \$160,700; (3) legal fees and expenses in the amount of \$146,364; (4) expert witness fees in the amount of \$16,579.00 (5) net commissions as of January 2003 in the amount of \$16,000 which were earned but not paid; (6) bonus in the amount of \$6,796 which was earned in 2002 but not paid; (7) voluntary contributions to deferred compensation in PartnerPlus retained by UBS and not applied against the EFL in the amount of \$3,834; (8) vesting in PartnerPlus, 401(k) and stock options in the amount of \$50,000; (9) pain and suffering damages in the amount of \$3,000,000; and (10) punitive damages in the amount of \$5,000,000.

Claimant also requested the following: (1) amendment of Claimant's Form U-5 to remove the reference to termination for cause; (2) copies of all of Claimant's customer records; (3) and reimbursement of the costs and expenses of the arbitration.

Following the hearing, Respondent UBS requested repayment of the outstanding balance in the EFL in the amount of \$12,132.56, plus reimbursement of all attorneys' fees and costs. Respondent did not request damages for tortious interference or for treble damages, which were requested in its Counterclaim.

OTHER ISSUES CONSIDERED AND DECIDED

The Panel denied Respondents' Motion to Dismiss by Order dated February 9, 2005.

At the hearing, Respondents submitted separately a Motion to Dismiss the claims against Respondent UBS and a Motion to Dismiss the claims against Respondent Williams. The Panel denied the Motion to Dismiss the claims against Respondent UBS. Claimant agreed to dismiss the claims against Respondent Williams and to dismiss the cause of action alleging that Respondent UBS violated the Age Discrimination in Employment Act of 1967.

Following the hearing, the Panel allowed the parties to submit post-hearing amended damage calculations.

The parties have 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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent UBS is liable and shall pay to Claimant compensatory damages in the amount of \$2,471,330.00;
2. Respondent UBS is liable and shall pay to Claimant the sum of \$16,579 for the expenses Claimant incurred for his expert witnesses;
3. The Panel finds that the Form U-5 filed with CRD by Respondent UBS PaineWebber Inc. (CRD 8174) on behalf of Claimant W. Wells Van Pelt contains defamatory information. The Panel therefore recommends the expungement of the Termination Comment as reported in Item 3 on the Form U5 filed with CRD by Respondent UBS, which states "Concerns about conduct regarding transactions at and near the close in a customers"s (sic) account." The replacement language for the termination comment is "Concerns about conduct regarding transactions at and near the close in a customer's account following an internal investigation. Although Mr. Van Pelt offered to resign rather than

be terminated, his request was denied. The Securities and Exchange Commission ("SEC") conducted an investigation regarding the transactions. The SEC did not initiate any enforcement action against Mr. Van Pelt following the conclusion of its investigation. In addition, a Panel of arbitrators did not find evidence of misconduct by Mr. Van Pelt during the consideration of his claim against UBS for wrongful termination (NASD arbitration case #04-00619)." There is no change recommended to the original reason for termination (i.e., discharge). The expungement recommendation is based on the defamatory nature of the information contained in Claimant's CRD record;

4. The Panel orders that Respondent UBS file an amended Form U5 with CRD on behalf of Claimant. Question 7B (Internal Review) should be answered "Yes" and complete details regarding the internal review should be provided on a U5 Internal Review Disclosure Reporting Page (DRP). The amended Form U5 should be filed with CRD within 30 days after this Award is served to all parties;
5. All other requests for relief submitted by Claimant are hereby denied;
6. Respondent UBS's Counterclaim is denied in its entirety;
7. All claims against Respondent Williams are dismissed in their entirety;
8. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
9. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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	= \$ 600.00
Counterclaim	= \$ 1,000.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent UBS is a party.

Member surcharge	= \$ 3,750.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,500.00
Total Member Fees	= \$10,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

February 22-25, 2005, adjournment by Claimant fee waived by Panel

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:

February 22-25, 2005, adjournment by Claimant fee waived by Panel

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 a single arbitrator @ \$450.00 = \$ 450.00
Pre-hearing conference: November 5, 2004 1 session

One (1) Pre-hearing session with Panel @ \$1,200.00 = \$ 1,200.00
Pre-hearing conference: September 9, 2004 1 session

Twelve (12) Hearing sessions @ \$1,200.00 = \$14,400.00
Hearing Dates: October 3, 2005 2 sessions
October 4, 2005 3 sessions
October 5, 2005 2 sessions
October 6, 2005 3 sessions
October 7, 2005 2 sessions

Total Forum Fees = \$16,050.00

1. The Panel has assessed \$16,050.00 of the forum fees to Respondent UBS.

EEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 600.00
Total Fees	= \$ 600.00
Less payments	= \$ 1,800.00
Refund Owed to Claimant	= \$ 1,200.00

2. Respondent UBS is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$10,000.00
Forum Fees	= \$16,050.00
Total Fees	= \$27,050.00
Less payments	= \$11,350.00
Balance Due NASD Dispute Resolution	= \$15,700.00

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

ARBITRATION PANEL

James Edwards Banks	-	Non-Public Arbitrator, Presiding Chairperson
Dennis W. Good	-	Public Arbitrator, Panelist
Lisa Bass Morris, Esq.	-	Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

James E. Banks

James Edwards Banks
Non-Public Arbitrator, Presiding Chairperson

November 2, 2005
Signature Date

Dennis W. Good
Public Arbitrator, Panelist

Signature Date

Lisa Bass Morris, Esq.
Public Arbitrator, Panelist


Signature Date

November 4, 2005
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

James Edwards Banks
Non-Public Arbitrator, Presiding Chairperson

Signature Date


Dennis W. Good
Public Arbitrator, Panelist

11-2-05
Signature Date

Lisa Bass Morris, Esq.
Public Arbitrator, Panelist

Signature Date

November 4, 2005
Date of Service (For NASD Dispute Resolution office use only)

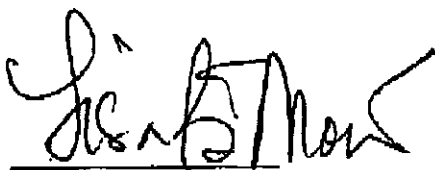
Concurring Arbitrators' Signatures

James Edwards Banks
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Dennis W. Good
Public Arbitrator, Panelist

Signature Date


Lisa Bass Morris, Esq.
Public Arbitrator, Panelist

10/1/05
Signature Date

November 4 2005
Date of Service (For NASD Dispute Resolution office use only)