

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 04-02469

S. Wayne Tucker

Names of the Respondents

Hearing Site: Charlotte, North Carolina

UBS Financial Services, Inc.
Richard John Ballou

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

REPRESENTATION OF PARTIES

Claimant, S. Wayne Tucker, hereinafter referred to as "Claimant", was represented by John F. Hanzel, Esq., Parker, Hanzel & Newkirk, LLP, Cornelius, North Carolina.

Respondents, UBS Financial Services, Inc. ("UBS") and Richard John Ballou ("Ballou"), hereinafter collectively referred to as "Respondents", were represented by Kenneth G. Menendez, Esq., Epstein, Becker & Green, PC, Atlanta, Georgia.

CASE INFORMATION

Statement of Claim filed on March 29, 2004.

Claimant signed the Uniform Submission Agreement on March 22, 2004.

Statement of Answer and Counterclaim filed by Respondent UBS on June 25, 2004.

A representative of Respondent UBS executed the Uniform Submission Agreement on September 7, 2004.

Statement of Answer filed by Respondent Ballou on June 25, 2004.

Respondent Ballou signed the Uniform Submission Agreement on September 17, 2004.

Claimant's Response to Respondent UBS's Counterclaim was filed on August 9, 2004.

CASE SUMMARY

Claimant asserted the following causes of action, among others: wrongful termination and libel. The cause of action relate to Claimant's employment with and termination from Respondent UBS.

Unless specifically admitted in their Answers, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted, waiver, estoppel, unclean hands, accord and satisfaction, contributory negligence, laches, any statements made on Claimant's U-5 form are true and privileged, Claimant's claims are barred by Claimant's fraud, and Claimant's employment was

at-will.

Respondent UBS asserted a Counterclaim for breach of contract. The cause of action relates to a Promissory Note entered into between Claimant and Respondent UBS.

Unless specifically admitted in his Answer, Claimant denied the allegations made in the Counterclaim and asserted that the Promissory Note in question is an adhesion contract.

RELIEF REQUESTED

Claimant in his Statement of Claim requested compensatory damages in the amount of \$663,953.92, punitive damages, damages related to lost wages and to the Promissory Note with Respondent UBS, costs and attorneys' fees.

Respondent UBS in its Counterclaim requested compensatory damages in the amount of \$30,833.92, interest, costs, and attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

During the hearing on the merits, Respondent made a motion for directed verdict. The panel denied said motion.

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. Claimant's claims are denied in their entirety;
2. Claimant is liable to and shall pay to Respondent UBS compensatory damages in the amount of \$30,833.92, plus interest at the prime rate plus 2% compounded monthly as set forth in the Promissory Note from April 15, 2002 until the award is paid in full;
3. Claimant is liable to and shall pay to Respondent UBS attorneys' fees in the amount of \$40,000.00, pursuant to the Promissory Note;
4. The parties shall bear their respective costs except as Fees are specifically addressed below; and
5. 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	= \$ 375.00
Counterclaim filing fee	= \$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	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00
Total Member Fees	= \$7,000.00

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:

One (1) Pre-hearing session with Panel @ \$1,200.00	= \$1,200.00
Pre-hearing conference: November 9, 2004 1 session	
Four (4) Hearing sessions @ \$1,200.00	= \$4,800.00
Hearing Dates: September 7, 2005 2 sessions	
September 8, 2005 2 sessions	
Total Forum Fees	= \$6,000.00

1. The Panel has assessed \$6,000.00 of the forum fees to Claimant.

FEE SUMMARY

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

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$6,000.00
Total Fees	= \$6,375.00
Less payments	= \$1,575.00
Balance Due NASD Dispute Resolution	= \$4,800.00

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

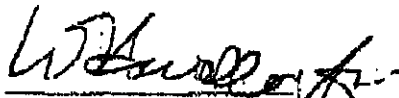
Initial Filing Fee	= \$1,000.00
Member Fees	= \$7,000.00
Total Fees	= \$8,000.00
Less payments	= \$8,450.00
Refund Owed Respondent	= \$ 450.00

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

ARBITRATION PANEL

William H. Malloy, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
James A. Cormack	-	Public Arbitrator, Panelist
Calvin D. Cevaal	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



William H. Malloy, Jr., Esq.
Public Arbitrator, Presiding Chairperson

October 6, 2005
Signature Date

James A. Cornack
Public Arbitrator, Panelist

Signature Date

Calvin D. Cevaal
Non-Public Arbitrator, Panelist

Signature Date

October 6, 2005
Date of Service (For NASD Dispute Resolution office use only)

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Signature Date

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James A. Cormack
Public Arbitrator, Panelist

Signature Date

Calvin D. Ceva
Calvin D. Ceva
Non-Public Arbitrator, Panelist

Oct 5, 2005
Signature Date

October 6, 2005
Date of Service (For NASD Dispute Resolution office use only)