

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Allen A. Jackson

and

Case Number: 04-03707
Hearing Site: Houston, Texas

Names of Respondents

UBS Financial Services, Inc.,
Christopher Montgomery and
J. Shayne Berry

NATURE OF DISPUTE

Customer v. Member Firm and Associated Persons

REPRESENTATION OF PARTIES

Allen A. Jackson ("**Claimant**") was represented by Robert A. Kantas, Esq., Sheperd, Smith & Edwards, Houston, Texas.

UBS Financial Services, Inc. ("**UBS**"), Christopher Montgomery ("**Montgomery**") and J. Shayne Berry ("**Berry**"), hereinafter collectively referred to as "Respondents," were represented by Tracey Salmon-Smith, Esq., UBS Financial Services, Inc., New York, New York.

CASE INFORMATION

The Statement of Claim was filed on or about May 24, 2004. The Submission Agreement of Claimant, Allen A. Jackson, was signed on or about May 12, 2004. The Claimant's Motion for Leave to Amend the Statement of Claim was filed on or about March 18, 2005. The First Amended Statement of Claim was filed on or about April 18, 2005.

The Statement of Answer was filed by Respondent, UBS Financial Services, Inc., on or about August 5, 2004. The Submission Agreement of Respondent, UBS Financial Services, Inc., was signed on or about August 4, 2004. Respondent, UBS Financial Services, Inc., filed its response to the Motion for Leave to Amend the Statement of Claim on or about April 7, 2005. The Respondents Joint Answer to the First Amended Statement of Claim was filed on or about May 2, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: misrepresentation, unsuitability, failure to supervise and negligence. The causes of action related to the recommendation and purchase of various unspecified stocks as well as a variable annuity ("The Annuity") from The Equitable. Claimant alleged that The Equitable, an insurance company which had a long relationship with UBS, was unsuitable for his investment objectives. In addition, Claimant alleged that Respondents misrepresented that this investment would easily take care of his retirement needs, and in trusting Respondents, once the Annuity contract was in force, Claimant selected all the mutual funds its sub-accounts.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim failed to state a claim upon which relief can be granted; Claimant's cases of action are barred by the doctrines of ratification, waiver and estoppel; Claimant cannot demonstrate that Respondents acted with the requisite scienter; Claimant expressly and implicitly represented to Respondents that he understood the nature and risks of the securities he purchased; Claimant had the opportunity to mitigate his damages to his account, but failed to do so in an appropriate and reasonable matter; and Claimant's alleged losses were not proximately caused by any alleged misconduct of UBS or its employees.

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$500,000.00
Punitive/Exemplary Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

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 Panel granted Claimant's Motion for Leave to Amend the Statement of Claim on or about April 18, 2005.

Respondents, Christopher Montgomery and J. Shayne Berry, did not file with the NASD Dispute Resolution properly executed submissions to arbitration but are required to submit

to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing are bound by the determination of the arbitration panel on all issues submitted.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

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

- 1.) Respondent, UBS Financial Services, Inc., is liable for and shall pay to Claimant, Allen A. Jackson, the sum of \$95,000.00 in compensatory damages;
- 2.) Respondents, UBS Financial Services, Inc. and Christopher Montgomery, are jointly and severally liable for and shall pay to Claimant, Allen A. Jackson, the sum of \$10,000.00 in compensatory damages;
- 3.) Respondents, UBS Financial Services, Inc. and J. Shayne Berry, are jointly and severally liable for and shall pay to Claimant, Allen A. Jackson, the sum of \$10,000.00 in compensatory damages;
- 4.) Respondents, UBS Financial Services, Inc., Christopher Montgomery and J. Shayne Berry, are jointly and severally liable for and shall pay to Claimant, Allen A. Jackson, interest on their above stated sums at the rate of 5% per annum from and including the date the Award is served through and including the date the Award is paid in full pursuant to Texas statute;
- 5.) Respondent, UBS Financial Services, Inc., is liable for and shall pay to Claimant, Allen A. Jackson, the sum of \$40,000.00 in attorneys' fees pursuant to Texas statute;
- 6.) Respondent, UBS Financial Services, Inc., is liable for and shall pay to Claimant, Allen A. Jackson, the sum of \$10,000.00 in costs; and
- 7.) Any relief not specifically enumerated, including punitive damages, is hereby denied with prejudice.

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 that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is UBS Financial Services, Inc.

Member surcharge = \$ 1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 2,750.00

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,125.00 = \$ 1,125.00

Pre-hearing conference: October 19, 2004 1 session

Five (5) Hearing sessions x \$1,125.00 = \$ 5,625.00

Hearing Dates: June 14, 2005 2 sessions
June 15, 2005 2 sessions
June 16, 2005 1 session

Total Forum Fees = \$ 6,750.00

The Arbitration Panel has assessed \$6,750.00 of the forum fees to UBS Financial Services, Inc.

Fee Summary

Claimant, Allen A. Jackson, is liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
<u>Refund Due to Claimant</u>	= \$ 1,125.00

Respondent, UBS Financial Services, Inc., is liable for:

<u>Member Fees</u>	= \$ 5,200.00
<u>Forum Fees</u>	= \$ 6,750.00
<u>Total Fees</u>	= \$ 11,950.00
<u>Less payments</u>	= \$ 5,200.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 6,750.00

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

ARBITRATION PANEL

Sherry R. Wetsch, Esq. - Public Arbitrator, Presiding Chair
Richard R. Nelson, Jr. - Public Arbitrator
James E. Lane - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Sherry R. Wetsch, Esq.
Sherry R. Wetsch, Esq.
Public Arbitrator, Presiding Chair

June 17, 2005
Signature Date

/s/ Richard R. Nelson, Jr.
Richard R. Nelson, Jr.
Public Arbitrator

June 17, 2005
Signature Date

/s/ James E. Lane
James E. Lane
Non-Public Arbitrator

June 17, 2005
Signature Date

June 17, 2005
Date of Service (For NASD office use only)

Fee Summary

Claimant, Allen A. Jackson, is liable for:

Initial Filing Fee	= \$ 300.0
Total Fees	= \$ 300.0
Less payments	= \$ 1,425.0
Refund Due to Claimant	= \$ 1,125.0

Respondent, UBS Financial Services, Inc., is liable for:


Member Fee	= \$ 5,200.0
Forum Fee	= \$ 6,750.0
Total Fees	= \$ 11,950.0
Less payments	= \$ 5,200.0
Balance Due NASD Dispute Resolution	= \$ 6,750.0

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

ARBITRATION PANEL

Sherry R. Wetsch, Esq. - Public Arbitrator, Presiding Chair
Richard R. Nelson, Jr. - Public Arbitrator
James E. Lane - Non-Public Arbitrator

Concurring Arbitrators:


Sherry R. Wetsch, Esq.
Public Arbitrator, Presiding Chair

6-17-05
Signature Date

Richard R. Nelson, Jr.
Public Arbitrator

Signature Date

James E. Lane
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

Fee Summary

Claimant, Allen A. Jackson, is liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
<u>Refund Due to Claimant</u>	= \$ 1,125.00

Respondent, UBS Financial Services, Inc., is liable for:

<u>Member Fees</u>	= \$ 5,200.00
<u>Forum Fees</u>	= \$ 6,750.00
<u>Total Fees</u>	= \$ 11,950.00
<u>Less payments</u>	= \$ 5,200.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 6,750.00

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

ARBITRATION PANEL

Sherry R. Wetsch, Esq. - Public Arbitrator, Presiding Chair
Richard R. Nelson, Jr. - Public Arbitrator
James E. Lane - Non-Public Arbitrator

Concurring Arbitrators:

Sherry R. Wetsch, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Richard R. Nelson, Jr.
Public Arbitrator

Signature Date


James E. Lane
Non-Public Arbitrator

6/17/2005
Signature Date

Date of Service (For NASD office use only)