

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Margaret A. McGlaun successor Trustee of The McGlaun Family Trust, Claimant v.
UBS Financial Services Inc., Geraldine Elaine Beaudin, and James Paul Vansteenhuyse,
Respondents

Case Number: 04-06339

Hearing Site: Phoenix, Arizona

Nature of the Dispute: Customer v. Member and Associated Persons

REPRESENTATION OF PARTIES

For Claimant:

Gary P. McKae
Investment Tracking Services, LLC
Phoenix, Arizona

For Respondents

UBS Financial Services Inc. and Geraldine
Elaine Beaudin:

Erin M. Naftali, Esq.
UBS Financial Services Inc.
Weehawken, New Jersey

For Respondent James Paul Vansteenhuyse:

Robert D. Mitchell, Esq.
Mitchell Law Offices
Phoenix, Arizona

CASE INFORMATION

Statement of Claim filed: August 31, 2004

Claimant Margaret McGlaun's Uniform Submission Agreement signed: September 21, 2004

Joint Statement of Answer filed by Respondent: February 23, 2005

Respondent UBS Financial Services Inc.'s Uniform Submission Agreement signed: February 23, 2005

Respondent Geraldine Elaine Beaudin's Uniform Submission Agreement signed: February 25, 2005

Respondent James Paul Vansteenhuyse's Uniform Submission Agreement signed: March 2, 2005

CASE SUMMARY

Claimant alleged breach of fiduciary duty, failure to supervise, unsuitability, and failure to provide a swap letter involving investment in Invesco Growth Fund.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and set forth various affirmative defenses.

RELIEF REQUESTED

Claimant requested \$29,200.74 in compensatory damages, loss of use damages in the sum of \$5,840.15 and costs in the sum of \$10,000.00.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, expungement of all reference to the above captioned arbitration from Respondent Geraldine Elaine Beaudin's registration records maintained by the NASD Central Registration Depository ("CRD"), and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On October 13, 2005, Respondents moved the Arbitrator for an Order Dismissing the Statement of Claim for Claimant's violation of the NASD discovery rules and procedures, specifically Rule 10321(a) or, in the alternative, for sanctions precluding Claimants from presenting evidence at the hearing of this case. The Arbitrator denied the motion to dismiss and deferred ruling on the motion for sanctions until the hearing. At the hearing, the Arbitrator issued sanctions in the sum of \$300.00 against Claimant for failure to follow applicable discovery rules and procedures.

On or about October 31, 2005, Respondent James Paul Vansteenhuyse moved the Arbitrator for an order dismissing Claimant's claims against him on the ground that he was erroneously named as the branch manager of the Sedona office of UBS Financial Services Inc. and was not involved in the alleged sales practices violations. Respondent further moved the Arbitrator for an order of *expungement of all reference to the above captioned arbitration from his CRD records*. At the hearing, the Arbitrator granted the Motion to Dismiss and ordered expungement of all reference to the above captioned arbitration from Respondent James Paul Vansteenhuyse's registration records maintained by CRD.

The parties agreed that a handwritten, signed Award may be entered.

AWARD

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

- 1) Claimant's claims against Respondents are denied in their entirety.
- 2) Claimant is liable to and shall pay Respondent UBS Financial Services, Inc. the sum of \$300.00 issued as a sanction for violation of NASD discovery rules and procedures.
- 3) The Arbitrator recommends the expungement of all reference to the above captioned arbitration from Respondent James Paul Vansteenhuyse's registration records maintained by the CRD, with the understanding that pursuant to NASD Notice to Members 04-16, Respondent James Paul Vansteenhuyse must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
 - a) Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.
 - b) Pursuant to Rule 2130, the Arbitrator has made the following affirmative findings of fact:

The allegations as to Respondent James Paul Vansteenhuyse are factually impossible and clearly erroneous. Respondent James Paul Vansteenhuyse was not the branch manager of the UBS Financial Services Inc. Sedona office and Respondent James Paul Vansteenhuyse was not involved in the alleged investment-related sales practice violations.
- 4) The parties shall bear their respective costs, including attorney's fees.
- 5) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 150.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm UBS Financial Services Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 600.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$1,000.00</u>
Total Member Fees	= \$2,350.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

(1) Decision on the papers on Respondent's Motion for Sanctions Against Claimant for violation of NASD Discovery Rules with a single arbitrator	= \$ 200.00
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(1) Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: April 18, 2005	1 session

(7) Hearing sessions @ \$450.00/session	= \$3,150.00
Hearings: November 2, 2005	2 sessions
November 3, 2005	2 sessions
November 4, 2005	3 sessions

Total Forum Fees	= \$3,800.00
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1. The Arbitrator assessed \$1,900.00 of the forum fees jointly and severally to Claimants.
2. The Arbitrator assessed \$1,900.00 of the forum fees to Respondent UBS Financial Services, Inc.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 150.00
<u>Forum Fees</u>	<u>= \$1,900.00</u>
Total Fees	= \$2,050.00
<u>Less payments</u>	<u>= \$(600.00)</u>
Balance Due NASD Dispute Resolution	= \$ 1,450.00

2. Respondent UBS Financial Services, Inc. is charged with the following fees and costs:

Member Fees	= \$ 2,350.00
<u>Forum Fees</u>	<u>= \$ 1,900.00</u>
Total Fees	= \$ 4,250.00
<u>Less payments</u>	<u>= \$(2,350.00)</u>
Balance Due NASD Dispute Resolution	= \$ 1,800.00

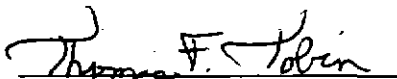
All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATOR

Thomas F. Tobin

Public Arbitrator, Presiding Chair

Arbitrator's Signature



Thomas F. Tobin
Chair, Public Arbitrator

November 18, 2005
Signature Date

11/23/05
Date of Service