

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Names of Claimants

David G. Walker and Betty Jane Walker

and

Case Number: 05-00247
Hearing Site: Houston, Texas

Names of Respondents

UBS Financial Services, Inc., and
Nathan J. Fruh

NATURE OF CASE

Customers v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

David G. Walker and Betty Jane Walker ("**Claimants**") were represented by Kevin O. Henrichson, Esq., Byrd, Davis, Eisenberg, Walter & Furman, Austin, Texas.

UBS Financial Services, Inc. ("**UBS Financial**"), and Nathan J. Fruh ("**Fruh**"), hereinafter collectively referred to as **Respondents**, was represented by Rebecca E. Swenson, Esq., UBS Financial Services, Inc., Ft. Lauderdale, Florida.

CASE INFORMATION

The Statement of Claim was filed on or about January 18, 2005. The Submission Agreements of Claimants, David G. Walker and Betty Jane Walker, were signed on or about January 12, 2005. The First Amended Statement of Claim and Response to Respondents' Motion to Dismiss was filed on or about April 21, 2005.

The Statement of Answer and Motion to Dismiss was filed jointly by Respondents, UBS Financial Services, Inc. and Nathan J. Fruh, on or about April 7, 2005. The Submission Agreement of Respondent, UBS Financial Services, Inc., was signed on or about February 16, 2005, by Rebecca E. Swenson, Esq. Respondent, Nathan J. Fruh, did not file a Submission Agreement. Respondents' Answer to the Amended Statement of Claim and Reply in Further Support of their Motion to Dismiss was filed on or about May 13, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: common law fraud; statutory fraud; and breach of fiduciary duty. The causes of action related to the recommendation and purchase of Putnam High Yield Trust II Class B stock. Claimants alleged that Respondents advised them to sell off their investments and put their money in high yield bonds, but failed to disclose the risks involved.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Respondents denied the Claimants' allegations Respondent Fruh guaranteed a fixed monthly income from the Putnam Fund; and Claimants' damage analysis has no basis in the law.

RELIEF REQUESTED

Claimants requested an award in the amount of \$52,307.00 in compensatory damages, plus punitive damages of \$60,000.00, attorneys' fees of \$35,000.00, and any other costs the panel deemed just and fair.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees. Respondent Fruh also asked the panel to enter an order directing NASD to expunge all references to this matter from his CRD records.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a single arbitrator may execute the Stipulated Award.

Respondent Fruh did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") however having answered the claim, is 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 the NASD Dispute Resolution (the "NASD").

AWARD

After considering the parties' submissions and representations, the undersigned arbitrators order as follows:

- 1.) Claimants' claims, each and all, are dismissed with prejudice pursuant to the parties' settlement agreement;
- 2.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Nathan J. Fruh's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Fruh must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 5.) That any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain 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 firms 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

Fee Summary

Claimants, David G. and Betty Jane Walker, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$1,425.00
Refund due to Claimants	= \$1,125.00

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

Member Fees	= \$2,450.00
Total Fees	= \$2,450.00
Less payments	= \$2,450.00
Balance Due NASD Dispute Resolution	= \$ 000.00

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

ARBITRATOR

Martha Failing, Esq. - Public Arbitrator, Presiding Chair

Arbitrator's Signature:

/s/ Martha Failing, Esq.
Martha Failing, Esq.
Public Arbitrator, Presiding Chair

09/22/05
Signature Date

09/29/05
Date of Service (For NASD office use only)

<u>Member Fees</u>	= \$2,450.00
<u>Total Fees</u>	= \$2,450.00
<u>Less payments</u>	= \$2,450.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 000.00

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

ARBITRATOR

Martha Failing, Esq. - Public Arbitrator, Presiding Chair

Arbitrator's Signature:



Martha Failing, Esq.
Public Arbitrator, Presiding Chair

SEP 22 2005

Signature Date

Date of Service (For NASD office use only)