

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

UBS Financial Services, Inc.

and

Case Number: 05-00284

Hearing Site: Oklahoma City, Oklahoma

Name of Respondent

William S. Foster

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**NATURE OF DISPUTE**

Member Firm v. Associated Person

**REPRESENTATION OF PARTIES**

UBS Financial Services, Inc. ("**Claimant**" or "**UBS Financial**") was represented by Brent A. Burns, Esq., Davidson & Grannum, LLP, Orangeburg, New York.

William S. Foster ("**Respondent**") of Norman, Oklahoma, did not enter an appearance in this matter.

**CASE INFORMATION**

The Statement of Claim was filed on or about January 19, 2005. The Amended Statement of Claim was filed on or about January 26, 2005.

The Submission Agreement of Claimant, UBS Financial Services, Inc., was signed on or about January 5, 2005.

Respondent Foster did not file either a Submission Agreement or a Statement of Answer.

**CASE SUMMARY**

Claimant is seeking compensation from Respondent for the unpaid portion of a Settlement entered into on July 29, 2002 by the parties pursuant to which Foster executed an Affidavit for Judgment by Confession. In the agreement, Foster agreed to pay UBS Financial \$236,404.00 in monthly payments of \$5,000.00 to be delivered on or before the fifteenth of every month beginning August 15, 2002 until June 15, 2006, with a final payment of

\$1,404.00 to be delivered on or before July 15, 2006. After making two payments, Foster ceased making payments.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of:

|                             |              |
|-----------------------------|--------------|
| Actual/Compensatory Damages | \$244,642.00 |
| Interest                    | Unspecified  |
| Attorneys' Fees             | Unspecified  |
| Other Costs                 | Unspecified  |
| Other Monetary Relief       | Unspecified  |

### **OTHER ISSUES CONSIDERED & DECIDED**

By letter dated May 18, 2005, Claimant opted to proceed against Respondent Foster pursuant to Rule 10314(e) of the NASD Code of Arbitration Procedure ("Code").

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have determined that Respondent Foster has been properly served with the Statement of Claim pursuant to Rule 10314 of the NASD Code of Arbitration Procedure (the "Code").

### **AWARD**

The undersigned arbitrator has decided and determined in full and final resolution of the issues for determination as follows:

- 1) Respondent, William S. Foster, is liable for and shall pay to Claimant, UBS Financial Services, Inc., the sum of \$254,642.80 in compensatory damages,
- 2) Respondent, William S. Foster, is liable for and shall pay to Claimant, UBS Financial Services, Inc., interest on the above stated amount at the rate of 3% per annum from and including September 15, 2002 through and including the date the award is paid in full;
- 3) Respondent, William S. Foster, is liable for and shall pay to Claimant, UBS Financial Services, Inc., the sum of \$5,106.34 in attorneys' fees; and
- 4) 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 = \$1,000.00

#### **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

#### **Forum Fees and Assessments**

The Arbitrator assesses a forum fee for an Award issued under the Default Proceedings. Fees associated with these proceedings are:

Default Proceedings = \$ 300.00

**Total Forum Fees** = \$ 300.00

The Arbitrator has assessed \$150.00 of the forum fees to UBS Financial Services, Inc.

The Arbitrator has assessed \$150.00 of the forum fees to William S. Foster.

### **FEE SUMMARY**

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

|                    |                    |
|--------------------|--------------------|
| Initial Filing Fee | = \$ 1,000.00      |
| Member Fees        | = \$ 2,450.00      |
| <u>Forum Fees</u>  | <u>= \$ 150.00</u> |

|                        |                      |
|------------------------|----------------------|
| Total Fees             | = \$ 3,600.00        |
| <u>Less payments</u>   | <u>= \$ 4,575.00</u> |
| Refund due to Claimant | = \$ 975.00          |

Respondent, William S. Foster, is liable for:

|                                     |                    |
|-------------------------------------|--------------------|
| <u>Forum Fees</u>                   | <u>= \$ 150.00</u> |
| Total Fees                          | = \$ 150.00        |
| <u>Less payments</u>                | <u>= \$ 0.00</u>   |
| Balance Due NASD Dispute Resolution | = \$ 150.00        |

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

**ARBITRATOR**

Steven J. Balaban – Industry Arbitrator, Presiding Chair

Arbitrator:

/s/ Steven J. Balaban  
Steven J. Balaban  
Industry Arbitrator, Presiding Chair

06/08/05  
Signature Date

06/08/05  
Date of Service (For NASD office use only)

|                        |                      |
|------------------------|----------------------|
| Total Fees             | = \$ 3,600.00        |
| <u>Less payments</u>   | <u>= \$ 4,575.00</u> |
| Refund due to Claimant | = \$ 975.00          |

Respondent, William S. Foster, is liable for:


|                                     |                  |
|-------------------------------------|------------------|
| Forum Fees                          | = \$ 150.00      |
| Total Fees                          | = \$ 150.00      |
| <u>Less payments</u>                | <u>= \$ 0.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 150.00      |

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

**ARBITRATOR**

Steven J. Balaban – Industry Arbitrator, Presiding Chair

Arbitrator:

  
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