

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Tucker Elizabeth Ramsay, Individually and as Trustee for the Tucker Elizabeth Ramsay Trust Dated 10/21/97, Claimants v. UBS Financial Services Inc. (formerly UBS PaineWebber, Inc.) and Michael Patrick Boylan, Respondents

Case Number: 05-00735

Hearing Site: San Francisco, California

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

REPRESENTATION OF PARTIES

For Claimants:

Dennis G. McCarthy, Esq.
Fenton & Keller
Monterey, California

For Respondents:

Philip A. McLeod, Esq.
Keesal, Young & Logan
San Francisco, California

CASE INFORMATION

Statement of Claim filed: February 8, 2005

Claimants' Arbitration Brief filed: January 25, 2006

Claimants' Uniform Submission Agreement signed: February 8, 2005

Joint Statement of Answer filed by Respondents UBS Financial Services Inc., formerly UBS PaineWebber, Inc. ("UBS") and Michael Patrick Boylan: April 25, 2005

Respondents' Arbitration Brief filed: January 25, 2006

Respondent UBS' Uniform Submission Agreement signed: February 17, 2005

CASE SUMMARY

Claimant Tucker Elizabeth Ramsay alleged that Claimants' accounts suffered losses because of Respondents' misrepresentations, unauthorized trading and fraudulent misconduct. Claimants also alleged the following claims: 1) Violation of NASD Rules; 2) Violation of California Securities Laws; 3) Breach of Contract; 4) Breach of Fiduciary

Duty; 5) Negligent Hiring, Retention and Supervision; 6) Intentional Infliction of Emotional Distress; 7) Fraud; and 8) Fraudulent Concealment. Claimants' dispute involved investments in municipal bonds and investments in various securities, including but not limited to, Staples stock, Verisign and AOL-Time Warner.

Respondents denied Claimants' allegations of wrongdoing and denied any liability to Claimants. Respondents also asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested:

1. Damages in the amount of \$227,000.00, or according to proof at hearing;
2. Pre-judgment interest in the amount of \$60,312.35;
3. Post-award interest;
4. Disgorgement of commissions in the amount of \$14,761.12;
5. Punitive damages in the amount of \$647,926.53;
6. Attorney's fees;
7. Costs; and
8. Any and all other relief which may be granted by the Panel.

Respondents requested:

1. That Claimants' Statement of Claim be dismissed;
2. That the Panel issue an award recommending the expungement of this matter from Mr. Boylan's CRD record; and
3. All other relief that the Panel deems just and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Michael Patrick Boylan did not file with NASD Dispute Resolution ("NASD-DR") a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD-DR Code of Arbitration Procedure ("the Code") and, having answered Claimants' Claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On February 8, 2005, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100 the waiver of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) All claims by Claimants, including the claims for punitive damages, are dismissed.
- 2) a. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Michael Patrick Boylan's registration records maintained by Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Michael Patrick Boylan must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

b. 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.

c. Pursuant to Rule 2130, the Panel has made the following affirmative findings of fact: The claims brought by the Claimants against Michael Patrick Boylan are false.

Arbitrator Robin Lynn Berry concurs with the Panel's ruling on Claimants' claims but dissents with respect to the ruling recommending expungement of the above captioned arbitration from Respondent Michael Patrick Boylan's registration records maintained by the CRD.
- 3) Each party shall bear its own costs, including attorney's fees.
- 4) All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$375.00
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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, UBS is a party and the following fees are assessed:

Member Surcharge	= \$2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$4,000.00</u>
Total Member Fees	= \$7,000.00

Forum Fees and Assessments

The Panel assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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:

(1) Pre-hearing conference session with a single arbitrator		
@ \$450.00/session		= \$450.00
Pre-hearing conference:	January 13, 2006	1 session

(2) Pre-hearing conference sessions with the Panel		
@ \$1,200.00/session		= \$2,400.00
Pre-hearing conferences:	June 28, 2005	1 session
	February 24, 2006	1 session

(8) Hearing sessions @ \$1,200.00/session		= \$9,600.00
Hearing Dates:	February 7, 2006	1 session
	February 8, 2006	2 sessions
	February 9, 2006	2 sessions
	February 10, 2006	1 session
	May 1, 2006	2 sessions

Total Forum Fees	= \$12,450.00
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The Panel assessed \$6,225.00 in forum fees jointly and severally to Claimants Tucker Elizabeth Ramsay, Individually and as Trustee for the Tucker Elizabeth Ramsay Trust Dated 10/21/97.

The Panel assessed \$6,225.00 in forum fees jointly and severally to Respondents UBS and Michael Patrick Boylan.

Fee Summary

1. Claimants Tucker Elizabeth Ramsay, Individually and as Trustee for the Tucker Elizabeth Ramsay Trust Dated 10/21/97 are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 6,225.00
Total Fees	= \$ 6,600.00
Less Payments	= \$(1,575.00)
Balance Due NASD-DR	= \$ 5,025.00

2. Respondent UBS is charged with the following fees and costs:

Member Fees	= \$ 7,000.00
Less Payments	= \$(7,000.00)
Balance Due NASD-DR	= \$ 0.00

3. Respondents UBS and Michael Patrick Boylan are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 6,225.00
Less Payments	= \$(0.00)
Balance Due NASD-DR	= \$ 6,225.00

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

ARBITRATION PANEL

Robert M. Lubin, Esq.	-	Public Arbitrator, Presiding Chair
Robin Lynn Berry	-	Public Arbitrator
Nicholas J. Caputo	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Robert M. Lubin, Esq.
Chair, Public Arbitrator

May 20, 2006
Signature Date

Nicholas J. Caputo
Non-Public Arbitrator

Signature Date

Concurring and Dissenting Arbitrator's Signature

Robin Lynn Berry
Public Arbitrator

Signature Date

6/05/06
Date of Service

ARBITRATION PANEL

Robert M. Lubin, Esq.	-	Public Arbitrator, Presiding Chair
Robin Lynn Berry	-	Public Arbitrator
Nicholas J. Caputo	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Robert M. Lubin, Esq.
Chair, Public Arbitrator

Signature Date



Nicholas J. Caputo
Non-Public Arbitrator

6/2/06

Signature Date

Concurring and Dissenting Arbitrator's Signature

Robin Lynn Berry
Public Arbitrator

Signature Date

06/05/06

Date of Service

ARBITRATION PANEL

Robert M. Lubin, Esq.	-	Public Arbitrator, Presiding Chair
Robin Lynn Berry	-	Public Arbitrator
Nicholas J. Caputo	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Robert M. Lubin, Esq.
Chair, Public Arbitrator

Signature Date

Nicholas J. Caputo
Non-Public Arbitrator

Signature Date

Concurring and Dissenting Arbitrator's Signature


Robin Lynn Berry
Public Arbitrator

6/2/06
Signature Date

6/05/06
Date of Service