
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Memory G. Bryant

Case Number: 05-00814

Names of the Respondents
UBS Financial Services Inc.
Morgan Keegan & Company Inc.
Malon Murray Wickham

Hearing Site: Birmingham, Alabama

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

REPRESENTATION OF PARTIES

Memory G. Bryant, hereinafter referred to as "Claimant", appeared *pro se*.

For Respondent UBS Financial Services Inc. ("UBS"): Randi P. Spallina, Esq., UBS Financial Services Inc., Fort Lauderdale, Florida.

For Respondents Morgan Keegan & Company Inc. ("Morgan Keegan") and Malon Murray Wickham ("Wickham"): John Starnes, Esq., Morgan Keegan & Company Inc., Memphis, Tennessee.

CASE INFORMATION

Statement of Claim filed on or about: February 14, 2005.

Claimant signed the Uniform Submission Agreement: January 2, 2005.

Statement of Answer and Motion to Dismiss filed by Respondent UBS on or about: April 28, 2005.

Respondent UBS signed the Uniform Submission Agreement: March 14, 2005.

Statement of Answer filed by Respondents Morgan Keegan and Wickham on or about: April 28, 2005.

Respondent Morgan Keegan signed the Uniform Submission Agreement: April 25, 2005.

Respondent Wickham signed the Uniform Submission Agreement: March 16, 2005.

Response to Respondent UBS's Motion to Dismiss filed by Claimant on or about: May 6, 2005.

Reply in Further Support of its Motion to Dismiss filed by Respondent UBS on or about: May 26, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: 1) controlling person liability; 2) breach of fiduciary duty; 3) breach of contract; 4) failure to diversify; 5) unsuitability; 6) failure to supervise; 7) failure to hedge; 8) violation of NASD Know Your Customer Rule; 9) violation of securities laws; and, 10) common law claims. The causes of action relate to the purchase of various unspecified securities and margin trading in Claimant's account.

Unless specifically admitted in their Answers, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages, as amended at the final hearing, in the amount of \$50,000.00, including all direct losses in the account, charges to the account and lost earnings, pre and post-judgment interest at the maximum statutory rate, costs, reasonable attorney's fees, expert witness fees, punitive damages and all other and further relief to which Claimant may be entitled.

Respondent UBS requested that the Statement of Claim be dismissed and an award of costs.

Respondents Morgan Keegan and Wickham requested that the Statement of Claim be dismissed, with prejudice and an award of fees, expenses, costs and such other and further relief as this Panel deemed just.

OTHER ISSUES CONSIDERED AND DECIDED

On July 5, 2005, the Panel issued an Order that granted Respondent UBS's Motion to Dismiss, except for the breach of contract claim.

On or about September 6, 2005, Claimant notified NASD dispute Resolution that she was dismissing Respondent UBS from this matter. Pursuant to this, the Panel made no further determination as to this Respondent.

During the final hearing for this matter, Claimant made an ore tenus request to amend her relief amount, reducing the amount of compensatory damages requested to \$50,000.00 plus, no cost for moving her account from Morgan Keegan. The Panel accepted the amendment. In addition, Respondents Morgan Keegan and Wickham made a Motion to Dismiss based on the statute of limitations. The Panel denied Respondents' motion.

Respondents requested, during the final hearing, that this matter be expunged from the NASD Central Registration Depository (the "CRD") record of Respondent Wickham. The Panel granted this request.

The parties have agreed that the Award in this matter may be entered in counterpart copies or that a signed handwritten Award may be entered.

AWARD

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

Respondents Morgan Keegan and Wickham are found not liable and Claimant's claims are denied in their entirety.

Respondents Morgan Keegan and Wickham, jointly and severally, shall pay to Claimant the amount of \$225.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.

Pursuant to NASD Rule 2130, the Panel made an affirmative finding that Claimant's allegations are clearly erroneous and, therefore, recommends the expungement of all reference to the above captioned arbitration from Respondent Wickham's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Wickham must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

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.

Any and all claims for relief not specifically addressed herein, including Claimant's requests for attorney's fees and punitive damages, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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 | = \$ 225.00 |
|--------------------------|-------------|

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. Accordingly, Respondent UBS is a party to this dispute and was a member of NASD at the time the following fees were assessed:

| | |
|----------------------------|---------------------|
| Member surcharge | = \$1,100.00 |
| Pre-hearing process fee | = \$ 750.00 |
| <u>Hearing process fee</u> | <u>= \$1,700.00</u> |
| Total Member Fees | = \$3,550.00 |

Respondent Morgan Keegan is a party to this dispute and was a member of NASD at the time the following fees were assessed:

| | |
|----------------------------|---------------------|
| Member surcharge | = \$1,100.00 |
| Pre-hearing process fee | = \$ 750.00 |
| <u>Hearing process fee</u> | <u>= \$1,700.00</u> |
| Total Member Fees | = \$3,550.00 |

Adjournment Fees

No requests for adjournments were filed in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No cancellation fees were assessed in this matter.

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

| | |
|---|--------------|
| Four (4) Decisions on discovery-related motions on the papers with One (1) Arbitrator @\$200.00 | = \$ 800.00 |
| Claimant submitted Three (3) discovery-related motions Respondent submitted One (1) discovery-related motion | |
| One (1) Pre-hearing session with the Panel @ \$600.00 | = \$ 600.00 |
| Pre-hearing conference: July 5, 2005 1 session | |
| Four (4) Hearing sessions with the Panel @ \$600.00 | = \$2,400.00 |
| Hearing Dates: April 18, 2006 2 sessions April 19, 2006 2 sessions | |
| Total Forum Fees | = \$3,800.00 |

The Panel has assessed the total forum fees of \$3,800.00 jointly and severally to Respondents Morgan Keegan and Wickham.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimant is solely liable for:

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|-------------------------------------|-------------|
| <u>Initial Filing Fee</u> | = \$ 225.00 |
| Total Fees | = \$ 225.00 |
| <u>Less payments</u> | = \$ 225.00 |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

Respondent UBS is solely liable for:

| | |
|--------------------|---------------|
| <u>Member Fees</u> | = \$ 3,550.00 |
| Total Fees | = \$ 3,550.00 |

| | |
|-------------------------------------|---------------|
| <u>Less payments</u> | = \$ 3,550.00 |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

Respondent Morgan Keegan is solely liable for:

| | |
|-------------------------------------|---------------|
| <u>Member Fees</u> | = \$ 3,550.00 |
| <u>Total Fees</u> | = \$ 3,550.00 |
| <u>Less payments</u> | = \$ 3,550.00 |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

Respondents Morgan Keegan and Wickham are jointly and severally liable for:

| | |
|-------------------------------------|---------------|
| <u>Forum Fees</u> | = \$ 3,800.00 |
| <u>Total Fees</u> | = \$ 3,800.00 |
| <u>Less payments</u> | = \$ 1,500.00 |
| Balance Due NASD Dispute Resolution | = \$ 2,300.00 |

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

ARBITRATION PANEL

| | | |
|-------------------------------------|---|---|
| <i>Donald M. Helton</i> | - | <i>Public Arbitrator, Presiding Chairperson</i> |
| <i>John D. Mattingly, JD</i> | - | <i>Public Arbitrator</i> |
| <i>Barbara Carraway Dogan, Esq.</i> | - | <i>Non-Public Arbitrator</i> |

Concurring Arbitrators' Signatures

/s/
Donald M. Helton
Public Arbitrator, Presiding Chairperson

04/20/06
Signature Date

/s/
John D. Mattingly, JD
Public Arbitrator

04/21/06
Signature Date

/s/
Barbara Carraway Dogan, Esq
Non-Public Arbitrator

04/21/06
Signature Date

04/21/06
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
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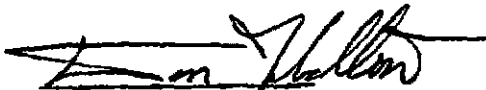
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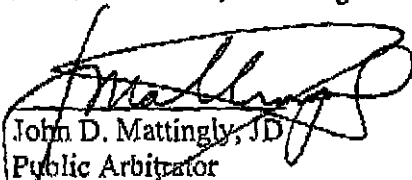
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Barbara Carraway Dogan, Esq.
Non-Public Arbitrator

April 21, 2006
Signature Date

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