

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

UBS Financial Services Inc., Claimant v. Jack T. Noe and Janet M. Robinson,
Respondents

Jack T. Noe and Janet M. Robinson, Counter-Claimants v. UBS Financial Services
Inc., Counter-Respondent

Case Number: 05-01496

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimant/Counter-Respondent
UBS Financial Services Inc.
("UBS Financial Services Inc.):

David Herron, Esq.
O'Melveny & Myers, LLP
Los Angeles, California

For Respondents/Counter-Claimants
Jack T. Noe and Janet M. Robinson
("Jack T. Noe" and "Janet M. Robinson"):

Brian L. Zagon, Esq.
Resolution Law Group, P.C.
Lafayette, California

Jayesh Patel, Esq.
Parker Mills & Patel LLP
Los Angeles, California

CASE INFORMATION

UBS Financial Services Inc.'s Uniform Submission Agreement signed: March 18, 2005

Jack T. Noe's Uniform Submission Agreement signed: June 8, 2005

Janet M. Robinson's Uniform Submission Agreement signed: June 8, 2005

Statement of Claim filed: March 21, 2005

Statement of Answer filed by Jack T. Noe and Janet M. Robinson: May 27, 2005

Statement of Counterclaim filed by Jack T. Noe and Janet M. Robinson: August 16, 2005

Statement of Answer to Counterclaim filed by UBS Financial Services Inc.: October 10, 2005

CASE SUMMARY

UBS Financial Services Inc. alleged breach of the duty of loyalty and other fiduciary duties, misappropriation and conversion, unfair competition, violation of the California Trade Secret Act, tortious interference with prospective economic advantage, and violation of the California Unfair Competition Law.

Unless admitted in their Statement of Answer, Jack T. Noe and Janet M. Robinson denied the allegations of wrongdoing set forth in UBS Financial Services Inc.'s Statement of Claim and asserted various affirmative defenses.

In their Statement of Counterclaim, Jack T. Noe and Janet M. Robinson alleged wrongful termination in violation of public policy, tortious interference with prospective economic advantage, and violation of the California Unfair Competition Law.

Unless admitted in its Statement of Answer to Counterclaim, UBS Financial Services Inc. denied the allegations of wrongdoing set forth in Jack T. Noe and Janet M. Robinson's Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

UBS Financial Services Inc. requested a permanent injunction against Jack T. Noe and Janet M. Robinson, unspecified compensatory and exemplary damages, and repayment of all compensation from January 2003 to March 2004.

In their Statement of Answer, Jack T. Noe and Janet M. Robinson requested dismissal of UBS Financial Services Inc.'s Statement of Claim with prejudice and costs, including attorney's fees.

In their Statement of Counterclaim, Jack T. Noe and Janet M. Robinson requested back pay, front pay, other monetary relief, unspecified general damages, unspecified punitive damages, interest from April 2004 to date of judgment, and costs.

In its Statement of Answer to Counterclaim, UBS Financial Services Inc. requested dismissal of Jack T. Noe and Janet M. Robinson's Counterclaim in its entirety and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On May 17, 2006, UBS Financial Services Inc. filed a Motion for Summary Judgment Dismissing Counterclaimants' Claim for Wrongful Constructive Discharge. On June 16, 2006, Jack T. Noe and Janet M. Robinson filed an Opposition to the Motion for Summary Judgment. On June 19, 2006, UBS Financial Services Inc. filed a Reply in Support of Motion for Summary Judgment. On June 22, 2006, the Panel and parties held a telephonic pre-hearing conference to hear oral argument on the motion. On June 22, 2006, after due deliberation, the Panel denied UBS Financial Services Inc.'s Motion for Summary Judgment Dismissing Counterclaimants' Claim for Wrongful Constructive Discharge.

On June 14, 2006, the parties filed a Stipulation Dismissing Jack T. Noe and Janet M. Robinson's Third Cause of Action and UBS Financial Services Inc.'s Third, Fourth, and Sixth Causes of Action. The Stipulation stated as follows:

1. That UBS hereby dismisses with prejudice its claims against Respondents and Counter-Claimants for: (1) Unfair Competition (Count III); (2) Violation of the California Trade Secret Act, Cal. Civ. Code § 3426 (Count IV); and (3) Violation of Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 (Count VI); and
2. That Respondents and Counter-Claimants hereby dismiss with prejudice their claim against UBS for: (1) Violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 (Count III).

At the evidentiary hearing, UBS Financial Services Inc. dismissed its claims against Jack T. Noe and Janet M. Robinson for tortious interference with prospective economic advantage.

Also at the evidentiary hearing, UBS Financial Services Inc. amended its relief requested to include unspecified punitive damages, damages for breach of loyalty in the amount of \$103,895.00 against Jack T. Noe and \$116,050.00 against Janet M. Robinson, damages for reduced production in the amount of \$58,318.00 against Janet M. Robinson, and injunctive relief for the return of all confidential documents taken by Jack T. Noe and Janet M. Robinson and for the documents not to be used for competitive purposes. The Panel accepted the amended relief requested by UBS Financial Services Inc.

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) Immediately upon service of this Award, Jack T. Noe and Janet M. Robinson are ordered to return every confidential document taken from UBS Financial Services Inc. in contravention of UBS Financial Services Inc.'s company policy.
- 2) UBS Financial Services Inc. is liable to and shall pay Jack T. Noe \$150,000.00 in compensatory damages.
- 3) UBS Financial Services Inc. is liable to and shall pay Janet M. Robinson \$150,000.00 in compensatory damages.
- 4) UBS Financial Services Inc. is liable to and shall pay Jack T. Noe interest on \$150,000.00 at the rate of 10% per annum from the date of service of the Award to the date that payment of the Award is made in full.
- 5) UBS Financial Services Inc. is liable to and shall pay Janet M. Robinson interest on \$150,000.00 at the rate of 10% per annum from the date of service of the Award to the date that payment of the Award is made in full.
- 6) UBS Financial Services Inc. is liable to and shall pay Jack T. Noe and Janet M. Robinson the sum of \$100,000.00 in attorney's fees, pursuant to California Civil Code section 3426.4.
- 7) UBS Financial Services Inc. is liable to and shall pay Jack T. Noe and Janet M. Robinson \$36,221.11 in costs.
- 8) UBS Financial Services Inc. is liable to and shall reimburse Jack T. Noe and Janet M. Robinson the amount of \$250.00 for their counterclaim filing fee.
- 9) Except as awarded above, the parties shall bear their respective costs, including attorney's fees.
- 10) 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	= \$ 1,000.00
Counterclaim filing fee	= \$ 250.00

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	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 2,750.00</u>
Total Member Fees	= \$ 5,200.00

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 one arbitrator @ \$450.00/session =\$ 450.00
Pre-hearing conference: July 14, 2006 1 session

2 Pre-hearing conference sessions with the Panel @ \$1,125.00/session =\$ 2,250.00

Pre-hearing conferences:	October 11, 2005	1 session
	June 22, 2006	1 session

22 Hearing sessions @ \$1,125.00/session	= \$ 24,750.00
Hearings:	
July 17, 2006	2 sessions
July 18, 2006	2 sessions
July 19, 2006	2 sessions
July 20, 2006	2 sessions
July 21, 2006	2 sessions
July 24, 2006	2 sessions
July 25, 2006	2 sessions
July 26, 2006	2 sessions
July 27, 2006	2 sessions
July 28, 2006	2 sessions
August 2, 2006	2 sessions

Total Forum Fees	= \$ 27,450.00
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The Panel assessed \$27,450.00 of the forum fees to UBS Financial Services Inc.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Jack T. Noe and Janet M. Robinson requested one copy of an audio transcript:	=\$ 15.00
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Fee Summary

1. UBS Financial Services Inc. is charged with the following fees and costs:

Initial Filing Fee	=\$ 1,000.00
Member Fees	=\$ 5,200.00
Forum Fees	=\$27,450.00
Total Fees	=\$33,650.00
Less payments	=\$ (5,950.00)
Balance Due NASD Dispute Resolution	=\$27,700.00

2. Jack T. Noe and Janet M. Robinson are charged jointly and severally with the following fees and costs:

Counterclaim Filing Fee	=\$ 250.00
Administrative Costs	=\$ 15.00
Total Fees	=\$ 265.00
Less payments	=\$ (15.00)
Balance Due NASD Dispute Resolution	=\$ 250.00

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.

ARBITRATION PANEL

J. Jean Elliott	-	Public Arbitrator, Presiding Chair
Cathleen M. Cobb	-	Public Arbitrator
John B. Wells	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


J. Jean Elliott
Chair, Public Arbitrator

August 8, 2006
Signature Date

Cathleen M. Cobb
Public Arbitrator

Signature Date

John B. Wells
Non-Public Arbitrator

Signature Date

8/9/06
Date of Service

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Public Arbitrator

Signature Date



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Non-Public Arbitrator

8/9/06

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