

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

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In the Matter of the Arbitration Between

Names of Claimants

Norman and Sumarni Master

and

Case Number: 05-01519  
Hearing Site: Houston, Texas

Names of Respondents

UBS Financial Services, Inc.,  
and David L. Shine

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**NATURE OF DISPUTE**

Customers v. Member and Associated Person

**REPRESENTATION OF PARTIES**

Norman and Sumarni Master ("**Claimants**") were represented by John V. Mastriani, Esq.,  
Bellaire, Texas.

UBS Financial Services, Inc. ("**UBS Financial**") and David L. Shine ("**Shine**"), hereinafter  
collectively referred to as "**Respondents**," were represented by Rebecca E. Swenson,  
Esq., UBS Financial Services, Inc., Ft. Lauderdale, Florida.

**CASE INFORMATION**

The Statement of Claim was filed on or about March 22, 2005. The Submission  
Agreements of Claimants were signed on or about December 10, 2004.

The Statement of Answer and Motion to Dismiss was filed jointly by Respondents, UBS  
Financial and Shine, on or about May 17, 2005. The Submission Agreement of UBS  
Financial was signed on or about March 31, 2005 by Rebecca E. Swenson. The  
Submission Agreement of Shine was signed on or about April 5, 2005.

Claimants' Response in Opposition to Respondents' Motion to Dismiss, Request for a  
Continuance on Said Motion and Discovery and Motions Schedule was filed on or about  
June 6, 2005.

Respondents' Reply in Further Support of Motion to Dismiss and Response to Claimants'  
Motion to Stay was filed on or about June 15, 2005.

Respondents' Brief in Support of Motion to Dismiss was filed on or about October 14, 2005.

Claimants' Brief in Opposition to Respondents' Motion to Dismiss was filed on or about October 18, 2005.

Respondents' Second Motion to Dismiss was filed on or about October 18, 2005.

Claimants' Response in Opposition to Respondents' Second Motion to Dismiss was filed on or about October 28, 2005.

Respondents' Reply Brief in Further Support of Motion to Dismiss was filed on or about November 10, 2005.

Claimants' Reply Response in Opposition to Respondents' First/Second Motion to Dismiss was filed on or about November 10, 2005.

Respondents' Sur-Reply Brief in Support of Motion to Dismiss was filed on or about November 11, 2005.

### **CASE SUMMARY**

Claimants asserted the following causes of action: breach of contract; negligence; conversion; fraud; and violation of the Texas Deceptive Trade Practices Act. The causes of action related to the recommendation and purchase of various unspecified investments. Claimants alleged that Respondents invested them in speculative and unsuitable investments. Claimants also alleged that Respondents failed to diversify their holdings, and instead invested a portion of their funds in the technology sector without their consent or authorization.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Any losses suffered by the Claimants resulted from their own actions or the actions of persons or entities that were not affiliated with the Respondents; Claimants are barred from any recovery because they authorized and consented to, acquiesced in, and/or ratified the transactions in question; and Claimants are barred from any recovery because they controlled their investment objectives.

### **RELIEF REQUESTED**

Claimants requested an award in the amount of \$100,000.00 in compensatory damages, punitive damages, their costs and attorneys' fees, and other relief as the panel deemed just and proper.

Respondents requested that the claims asserted against them be denied in their entirety and other relief as the panel deemed just and proper. Respondent, David Shine, also requested the panel enter an order directing NASD to expunge all references to this matter from his CRD records.

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

On January 5, 2006, during a pre-hearing conference, the parties presented the panel with their oral arguments regarding the pending Motion to Dismiss. The panel granted Respondents' Motion to Dismiss.

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 NASD Dispute Resolution ("NASD").

### **AWARD**

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

- 1) Claimants' claims, each and all, are dismissed with prejudice in their entirety;
- 2) Respondent, David Shine's, request for an order expunging this arbitration from his CRD records has been denied;
- 3) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4) Any relief not specifically enumerated, including punitive damages and attorneys' 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 fee 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. 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 Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

Two (2) Pre-hearing sessions with Panel x \$750.00 = \$1,500.00

Pre-hearing conferences: August 3, 2005 1 session

January 5, 2006 1 session

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Total Forum Fees = \$1,500.00

The Arbitration Panel has assessed \$750.00 of the forum fees jointly and severally to Norman and Sumarni Master.

The Arbitration Panel has assessed \$750.00 of the forum fees jointly and severally to UBS Financial Services, Inc. and David L. Shine.

### **Fee Summary**

Claimants, Norman and Sumarni Master, are jointly and severally liable for:

Initial Filing Fee = \$ 225.00

Forum Fees = \$ 750.00

Total Fees = \$ 975.00

Less payments = \$ 975.00

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Balance Due NASD Dispute Resolution = \$ 0.00

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	= \$ 0.00

Respondents, UBS Financial Services, Inc., and David L. Shine, are jointly and severally liable for:

Forum Fees	= \$ 750.00
Total Fees	= \$ 750.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 750.00

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

**ARBITRATION PANEL**

Edward Thomas Leech - Public Arbitrator, Presiding Chair  
William A. Allen, CPA, Esq. - Public Arbitrator  
Jane E. Bates - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Edward Thomas Leech  
Edward Thomas Leech  
Public Arbitrator, Presiding Chair

01/13/06  
Signature Date

/s/ William A. Allen, CPA, Esq.  
William A. Allen, CPA, Esq.  
Public Arbitrator

01/13/06  
Signature Date

/s/ Jane E. Bates  
Jane E. Bates  
Non-Public Arbitrator

01/12/06  
Signature Date

01/13/06  
Date of Service (For NASD office use only)

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Edward Thomas Leech  
Public Arbitrator, Presiding Chair

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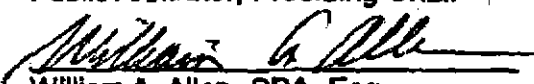
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