

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

John L. Mendez and Georgina S. Mendez, Claimants v. UBS Financial Services Inc.,
Respondent

Case Number: 05-03050

Hearing Site: Las Vegas, Nevada

Nature of the Dispute: Customers v. Member

REPRESENTATION OF PARTIES

For Claimants:

John L. Mendez
Pro Se
Los Angeles, California

For Respondent:

Kathleen S. Adams, Esq.
UBS Financial Services
Inc.
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: June 2, 2005

Amended Statement of Claim filed: December 7, 2005

Second Amended Statement of Claim filed: May 12, 2006

Claimant John Mendez's Uniform Submission Agreement signed: June 2, 2005

Claimant Georgina Mendez's Uniform Submission Agreement signed: May 30, 2005

Statement of Answer filed by Respondent UBS Financial Services Inc.: July 19, 2005

Respondent UBS Financial Services Inc.'s Uniform Submission Agreement signed: July 19, 2005

CASE SUMMARY

Claimants asserted the following causes of action: misrepresentation, failure to disclose, omission of facts, breach of fiduciary duty, negligence, failure to supervise, and failure to execute trades. Claimants' allegations involved the purchase of closed end funds for

their account such as Eaton Vance Tax Advantaged Dividend Income Fund, Eaton Vance Limited Duration Income Fund, and Nuveen Senior Income Fund.

Unless specifically admitted in its Answer, Respondent denied the allegations of wrongdoing set forth in Claimants' Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In their initial Statement of Claim, Claimants requested \$6,833.00 in compensatory damages, unspecified punitive damages, and costs, including attorney's fees. In their revised claim, Claimants requested \$8,636.04 in compensatory damages, unspecified punitive damages, and costs, including attorney's fees. In their second revised claim, Claimants requested \$8,636.04 in compensatory damages, \$17,272.08 in punitive damages, \$334.21 in interest, and costs, including attorney's fees.

Respondent requested dismissal of Claimants' Statement of Claim in its entirety and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On August 4, 2005, Claimants filed a Motion for Summary Judgment and Memorandum in Opposition to Respondent's Prayer [For Relief]. On October 20, 2005, Respondent filed a Response in Opposition to Claimants' Motion for Summary Judgment. On October 31, 2005, Claimants filed a Motion in Opposition to Respondent's Opposition to Claimants' Motion for Summary Judgment. On December 7, 2005, the arbitrator denied Claimants' Motion for Summary Judgment.

On October 26, 2005, Respondent filed a Motion to Transfer Venue to Los Angeles. On October 31, 2006, Claimants filed a Motion in Opposition to Respondent's Motion to Transfer Venue to Los Angeles. In a December 7, 2005 Order, the arbitrator stated that consideration of Claimants' motion would be deferred until Claimant John Mendez submitted certain evidence supporting his position that Las Vegas, Nevada was his primary residence during the period in question. On December 19, 2005, Claimant John Mendez submitted additional documents to the arbitrator in connection with Respondent's Motion to Transfer Venue. On December 20, 2005, the arbitrator denied Respondent's motion.

On October 31, 2005, Claimants filed a Motion to Revise Actual Damages Requested to \$8,636.04. On December 7, 2005, the arbitrator granted Claimants' motion.

On November 4, 2005, Claimants filed a Motion to Sanction Respondent. On November 11, 2005, Respondent filed a response to Claimant's motion. On December 7, 2005, the

arbitrator denied Claimants' motion.

At the evidentiary hearing, Claimants requested permission to amend his request for punitive damages. The arbitrator granted this request so long as Claimants filed a written amended claim. On May 12, 2006, Claimants filed an amended Claim Information Sheet in which they requested \$17,272.08 in punitive damages and the following specific performance: improved communications at UBS Financial Services Inc.'s Beverly Hills branch office. In the Amended Claim Information sheet, Claimants stated that improved communications would mean that facts are not omitted and that full disclosures are made to individual investors of relevant news releases.

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, and the post-hearing submissions filed by the parties, the arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent is liable to and shall pay Claimants the sum of \$2,561.14 in compensatory damages.
- 2) With respect to Claimants' request for specific performance, under federal, state and local securities statutes and regulations and the ethical standards of the securities industry, UBS Financial Services Inc. is already legally and ethically bound to provide full and fair disclosure of all material facts in connection with the purchase or sale of securities. If an individual investor has unique disclosure requests or requirements -- in addition to what is traditionally, normally, or reasonably required by statutes and regulations -- then the investor and the broker must discuss and agree on how the individual investor's needs will be satisfied.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) Any and all relief not specifically addressed herein, including punitive damages, 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	= \$150.00
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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, the member firm UBS Financial Services Inc. is a party, and the following fees are assessed:

Member Surcharge	= \$ 600.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$1,000.00
Total Member Fees	= \$2,350.00

Forum Fees and Assessments

The Arbitrator has assessed forum fees for each hearing session conducted. A hearing 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. The following forum fees are assessed:

Two (2) pre-hearing conference sessions with a single arbitrator @ \$450.00/session		= \$ 900.00
Pre-hearing conferences:	September 13, 2005	1 session
	December 6, 2005	1 session
Five (5) hearing sessions @ \$450.00/session		= \$2,250.00
Hearings:	April 26, 2006	3 sessions
	April 27, 2006	2 sessions
Total Forum Fees		= \$3,150.00

1. The arbitrator assessed \$1,575.00 of the forum fees jointly and severally to Claimants.
2. The arbitrator assessed \$1,575.00 of the forum fees to Respondent.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 150.00
Forum Fees	= \$1,575.00
Total Fees	= \$1,725.00
Less payments	= \$ (325.00)
Balance Due NASD Dispute Resolution	= \$1,400.00

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

Member Fees	= \$2,350.00
Forum Fees	= \$1,575.00
Total Fees	= \$3,925.00
Less payments	= \$ (325.00)
Balance Due NASD Dispute Resolution	= \$3,600.00

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.

ARBITRATOR

Royetta M. Jones

Public Arbitrator

Arbitrator's Signature



**Royetta M. Jones
Public Arbitrator**

5/18/2006

Signature Date

May 19, 2006
Date of Service