

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Russell W. Florence and Sally C. Florence (Claimants) vs. UBS Financial Services, Inc. f/k/a/ PaineWebber, Inc. and Rudolf A. Woykowski (Respondents)

Case Number: 05-03312

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimants Russell W. Florence ("R. Florence") and Sally C. Florence ("S. Florence") hereinafter collectively referred to as "Claimants": Gregory Simon, Esq., and Katherine Wark, Esq., Simmons Cooper, LLC, East Alton, IL.

Respondents UBS Financial Services, Inc. f/k/a/ PaineWebber, Inc ("UBS") and Rudolf A. Woykowski ("Woykowski") hereinafter collectively referred to as "Respondents": Noah Weisman, Esq., and Vincent J. Oliva, Esq., UBS Financial Services, Inc., Weehawken, NJ.

CASE INFORMATION

Statement of Claim filed on or about: June 28, 2005.

Claimant R. Florence signed the Uniform Submission Agreement: June 24, 2005.

Claimant S. Florence signed the Uniform Submission Agreement: June 24, 2005.

Statement of Answer filed by Respondents on or about: August 30, 2005.

Respondent UBS signed the Uniform Submission Agreement: August 30, 2005.

Respondent Woykowski did not submit a Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty, breach of contract, violation of the Securities Exchange Act, violation of the New York Deceptive Trade Practices-Consumer Protection Act, and negligence. The causes of action relate to mutual funds.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$219,000.00, punitive damages in the amount of \$657,000.00, all costs of this arbitration including an award of reasonable

attorneys' fees pursuant to the New York Deceptive Trade Practices-Consumer Protection Act, treble damages pursuant to the New York Deceptive Trade Practices-Consumer Protection Act, and whatever relief the arbitration panel believes just and within their authority.

Respondents requested the dismissal of the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Woykowski did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

At the hearing in this matter, Respondent Woykowski filed a Motion to Expunge his CRD record. After due deliberation, the Panel granted the Motion.

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.

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:

1. Claimants' claims are dismissed in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Rudolf A. Woykowski's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Rudolf A. Woykowski 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.

Pursuant to Rule 2130, the arbitration panel has made the following affirmative findings of fact:

The claim, allegation, or information is false.

3. 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 will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 375.00

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, UBS Financial Services, Inc. is a party.

Member surcharge = \$2,250.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$4,000.00

Forum Fees and Assessments

The Panel has 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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Decisions on discovery-related motions on the papers
with (#) one arbitrator @ \$200.00 = \$ 400.00

Claimants submitted two discovery-related motions

One (1) Pre-hearing session with Panel @ \$1,200.00 = \$1,200.00

Pre-hearing conference: November 2, 2005 1 session

Five (5) Hearing sessions @ \$1,200.00 = \$6,000.00

Hearing Dates: April 25, 2006 2 sessions

April 26, 2006 2 sessions

April 27, 2006 1 session

Total Forum Fees = \$7,600.00

1. The Panel has assessed \$3,800.00 of the forum fees to Claimants.
2. The Panel has assessed \$3,800.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants are solely liable for:

Initial Filing Fee = \$ 375.00

Forum Fees = \$3,800.00

Total Fees = \$4,175.00

Less payments = \$1,575.00

Balance Due NASD Dispute Resolution = \$2,600.00

2. Respondent UBS is solely liable for:

Member Fees = \$7,000.00

Total Fees = \$7,000.00

Less payments = \$7,000.00

Balance Due NASD Dispute Resolution = \$ 0.00

3. Respondents are jointly and severally liable for:

Forum Fees = \$3,800.00

Total Fees	= \$3,800.00
<u>Less payments</u>	<u>= \$ 750.00</u>
Balance Due NASD Dispute Resolution	= \$3,050.00

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

ARBITRATION PANEL

Francis J. Pavetti, Esq.	-	Public Arbitrator, Presiding Chairperson
Bernard M. Levine	-	Public Arbitrator
Judah Munk	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this, which is my award.

Concurring Arbitrators' Signatures



Francis J. Pavetti, Esq.
Public Arbitrator, Presiding Chairperson

May 3, 2006
Signature Date

Bernard M. Levine
Public Arbitrator

Signature Date

Judah Munk
Non-Public Arbitrator

Signature Date

May 5, 2006
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

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Bernard M. Levine	-	Public Arbitrator
Judah Munk	-	Non-Public Arbitrator

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Francis J. Pavetti, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Bernard M. Levine
Public Arbitrator

Signature Date



Judah Munk
Non-Public Arbitrator

5/2/06

Signature Date

May 5, 2006
Date of Service (For NASD Dispute Resolution use only)