

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Joseph Sabbagh (Claimant) vs. UBS Financial Services, Inc. (Respondent)

Case Number: 05-05060

Hearing Site: New York, New York

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

Claimant Joseph Sabbagh hereinafter referred to as "Claimant": Dean G. Yuzek, Esq., Ingram Yuzek Gainen Carroll & Bertolotti, LLP, New York, NY.

Respondent UBS Financial Services, Inc. hereinafter referred to as "Respondent": Claudia M. Cohen, Esq., Kenneth J. Kelly, Esq., and Jennifer Moak Horowitz, Esq., Epstein Becker & Green, P.C., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: September 27, 2005.

Claimant signed the Uniform Submission Agreement: September 27, 2005.

Statement of Answer and Motion to Dismiss filed by Respondent on or about: November 21, 2005.

Respondent signed the Uniform Submission Agreement: October 5, 2005.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract, loss of business opportunity, and misrepresentations.

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

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$3,250,000.00.

Respondent requested dismissal of the Statement of Claim in its entirety, attorneys' fees, forum fees, and such other relief as the Panel deems appropriate.

**OTHER ISSUES CONSIDERED AND DECIDED**

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

1. Any obligation of Claimant Sabbagh to Respondent UBS, its affiliates, successors, or assigns pursuant to the Employee Forgivable Loan between the parties and any Note(s) or other evidence of indebtedness executed by Claimant Sabbagh in connection therewith is cancelled as of the date of this Award.
2. At such time as Claimant Sabbagh leaves the employ of Respondent UBS or an affiliate, before the original term of the Employee Forgivable Loan has expired, Claimant Sabbagh is entitled to a severance payment of \$400,000.00 in lieu of any other obligation that Respondent UBS or an affiliate may have to Claimant Sabbagh as a result of his termination or voluntary resignation under Respondent UBS's personnel policies or otherwise.
3. Neither Respondent UBS nor an affiliate may retaliate by affecting any discipline against Claimant Sabbagh in connection with his accessing of certain UBS Financial Services records in connection with the presentation of his claims in arbitration. (Claimant Sabbagh remains an employee at will under the laws of the State of New York. Respondent UBS may elect to retain him as an employee or not, as it sees fit.)
4. Respondent shall bear all costs of preparing the transcript for this proceeding, including the \$225.00 NASD Dispute Resolution Administrative Costs for copies of the hearing tapes.
5. Respondent is liable for and shall pay to Claimant \$600.00 to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.
6. Any and all relief not specifically addressed herein 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	= \$	600.00
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### **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	= \$	2,800.00
Pre-Hearing Process Fee	= \$	750.00
Hearing Process Fee	= \$	5,000.00

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

June 20-22, 2006 adjournment by Respondents	= \$	WAIVED
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### **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 Panel, 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 @ \$1,200.00	= \$	2,400.00
Pre-hearing conferences: February 7, 2006	1 session	
May 11, 2006	1 session	
Ten (10) Hearing sessions with Panel @ \$1,200.00	= \$	12,000.00
Hearing Dates: September 19, 2006	2 sessions	
September 20, 2006	2 sessions	
October 10, 2006	2 sessions	
October 11, 2006	2 sessions	
October 19, 2006	2 sessions	
Total Forum Fees	= \$	14,400.00

1. The Panel has assessed \$14,400.00 of the forum fees to Respondent.

### **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.

1. Claimant requested copies of hearing tapes	= \$	120.00
2. Claimant requested copies of hearing tapes	= \$	105.00

### **Fee Summary**

1. Claimant is solely liable for:		
Initial Filing Fee	= \$	600.00
Total Fees	= \$	600.00
Less payments	= \$	1,800.00

Refund Due Claimant = \$ 1,200.00

*As listed in the "Award" section above, Respondent shall reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.*

2. Respondent is solely liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 14,400.00
<u>Administrative Costs</u>	<u>= \$ 225.00</u>
Total Fees	= \$ 23,175.00
<u>Less payments</u>	<u>= \$ 8,550.00</u>
Refund Due Respondent	= \$ 14,625.00

*As listed in the "Award" section above, the Panel has assessed \$225.00 of the administrative costs to Respondent.*

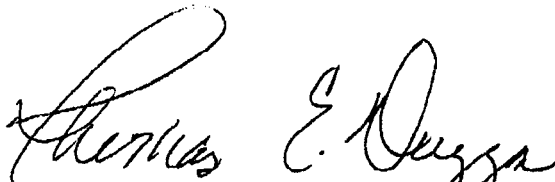
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

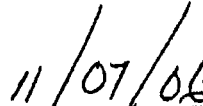
Thomas E. Duggan, Esq.	-	Non-Public Arbitrator, Presiding Chairperson
Stuart Rothenstein	-	Non-Public Arbitrator
Mark H. Mantell	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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 is which is my award.



Thomas E. Duggan, Esq.  
Non-Public Arbitrator, Presiding Chairperson



Signature Date

\_\_\_\_\_  
Stuart Rothenstein  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Mark H. Mantell  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

November 9, 2006  
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)

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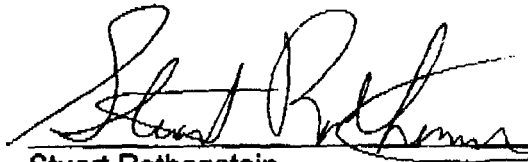
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Thomas E. Duggan, Esq.  
Non-Public Arbitrator, Presiding Chairperson

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Stuart Rothenstein  
Non-Public Arbitrator

11/08/2006  
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Signature Date

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Mark H. Mantell  
Non-Public Arbitrator

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Signature Date

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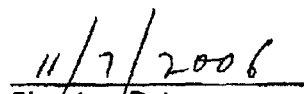
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