

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

UBS Financial Services, Inc. (Claimant) vs. Adam R. Ayers (Respondent)

Case Number: 05-05625

Hearing Site: Columbus, Ohio

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Nature of the Dispute: Member v. Associated Person.

**REPRESENTATION OF PARTIES**

Claimant UBS Financial Services, Inc. hereinafter referred to as "Claimant": Jeffrey P. Newman, Esq., Davidson & Grannum, LLP, Orangeburg, NY.

Respondent Adam R. Ayers hereinafter referred to as "Respondent" appeared *pro se*. Previously represented by Douglas R. Jennings, Esq., Carlile Patchen & Murphy LLP, Columbus, OH.

**CASE INFORMATION**

Statement of Claim filed on or about: November 2, 2005.

Claimant signed the Uniform Submission Agreement: October 12, 2005.

Statement of Answer filed by Respondent on or about: February 10, 2006.

Respondent signed the Uniform Submission Agreement: January 1, 2006.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of promissory notes.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim.

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$54,192.41 plus interest from February 26, 2004 through the payment of the award, all costs, fees and disbursements of this action, including attorneys' fees and such other and further relief as the Arbitration Panel may deem just and equitable.

Respondent requested the dismissal of the Statement of Claim in its entirety and that the Panel order Claimant to pay all filing and forum fees.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

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. Respondent is liable for and shall pay to Claimant compensatory damages in the amount of \$70,000.00 which includes an award of interest.
2. 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	= \$1,000.00
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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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, UBS Financial Services, Inc. is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

August 22-23, 2006 adjournment by Claimant	= \$ 750.00
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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 arbitrators, including a pre-hearing conference with the

arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel @ \$750.00	= \$ 750.00
Pre-hearing conference: April 25, 2006 1 session	
One (1) Hearing sessions @ \$750.00 per session	= \$ 750.00
Hearing Date: September 26, 2006 1 session	
<hr/> Total Forum Fees	<hr/> = \$1,500.00

1. The Panel has assessed \$1,500.00 of the forum fees to Claimant.

**Fee Summary**

1. Claimant is solely liable for:	
Initial Filing Fee	= \$1,000.00
Member Fees	= \$3,550.00
Adjournment Fee	= \$ 750.00
Forum Fees	= \$1,500.00
<hr/> Total Fees	<hr/> = \$6,800.00
Less payments	= \$5,300.00
<hr/> Balance Due NASD Dispute Resolution	<hr/> = \$1,500.00

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

**ARBITRATION PANEL**

Harvey Michael Rosenberg	-	Public Arbitrator, Presiding Chairperson
Stephen Anthony Rogers	-	Public Arbitrator
Robert P. Fogarty	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Harvey Michael Rosenberg  
Public Arbitrator, Presiding Chairperson

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Signature Date

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*Stephen Anthony Rogers*  
Stephen Anthony Rogers  
Public Arbitrator

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*9-28-06*  
Signature Date

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Robert P. Fogarty  
Non-Public Arbitrator

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

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October 6, 2006  
Date of Service (For NASD Dispute Resolution use only)

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