

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Joshua Wheelock (Claimant) v. UBS Securities, LLC, UBS Warburg, LLC, UBS AG, and Michael Rosenberg (Respondents)

Case Number: 04-01240

Hearing Site: New York, New York

Nature of the Dispute: Associated Person vs. Members, Non-Member, and Associated Person.

REPRESENTATION OF PARTIES

Claimant Joshua Wheelock ("Wheelock") hereinafter referred to as "Claimant": Robert D. Kraus, Esq., Kraus & Zuchlewski, LLP, New York, NY. Previously represented by: Robert D. Kraus, Esq., Salisbury & Ryan, LLP, New York, NY.

Respondents UBS Securities LLC a/k/a UBS Warburg, LLC ("UBS") and Michael Rosenberg ("Rosenberg"): Jeffrey I. Kohn, Esq., O'Melveny & Myers, LLP, New York, NY.

Respondent UBS AG ("UBS AG") did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: February 25, 2004.

Reply to Counterclaims filed on or about: June 25, 2004.

Claimant signed the Uniform Submission Agreement: February 24, 2004.

Joint Statement of Answer and Counterclaims filed by Respondents UBS and Rosenberg on or about: June 9, 2004.

Respondent UBS signed the Uniform Submission Agreement: June 4, 2004.

Respondent Rosenberg signed the Uniform Submission Agreement: May 24, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: wrongful termination; unjust enrichment; quantum meruit; violation of Connecticut Wage Statute; slander; and tortious interference. In his Reply to the Counterclaims, Claimant denied the allegations made in the Counterclaim and asserted various affirmative defenses.

Unless specifically admitted in their Answer, Respondents UBS and Rosenberg denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In its Counterclaim, UBS asserted the following causes of action: breach of fiduciary duty and tortious interference.

RELIEF REQUESTED

Claimant requested the following:

- (1) On his first claims, compensatory damages in excess of \$3,700,000.00, plus punitive damages.
- (2) On his second and third claims, compensatory damages in excess of \$3,700,000.00.
- (3) On his fourth claim, compensatory damages in an amount equal to twice the amount of unpaid wages, plus costs and attorneys' fees.
- (4) On his fifth and sixth claims, compensatory damages in excess of \$5,000,000.00, plus punitive damages.
- (5) Plus any other relief that the Arbitrators may deem appropriate.

In his Reply to the Counterclaims, Claimant requested that a judgment be entered dismissing each of the Counterclaims with prejudice, plus costs and attorneys' fees.

Respondents UBS and Rosenberg requested the following:

- (1) That Claimant's claim and each cause of action thereof be dismissed with prejudice.
- (2) That Claimant take nothing by his claim.
- (3) That UBS be awarded judgment on its Counterclaims, plus compensatory damages.
- (4) Costs and attorneys' fees.
- (5) And such other and further relief as the Panel may deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent UBS AG is not an NASD member, and therefore, was not required to arbitrate in this forum and did not submit to NASD Dispute Resolution's jurisdiction.

During the hearing, Respondent UBS made a Motion to Dismiss. After due deliberation, the panel denied 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, and 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 UBS is liable for and shall pay to Claimant the sum of \$1,300,000.00 as compensatory damages.

2. Respondent UBS has not established that it is entitled to withhold Claimant's equity under UBS EOP. Respondent UBS is directed to release Claimant's equity in his EOP in accordance with the vesting schedule of the EOP.
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 | = \$600.00 |
| Respondent UBS' Counterclaim filing fee | = \$500.00 |

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 Securities, LLC is a party.

| | |
|-------------------------|--------------|
| Member surcharge | = \$3,750.00 |
| Pre-hearing process fee | = \$ 750.00 |
| Hearing process fee | = \$5,500.00 |

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. 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:

| | |
|--------------------------------------------------------|---------------------|
| Three (3) Pre-hearing sessions with Panel @ \$1,200.00 | = \$ 3,600.00 |
| Pre-hearing conference: | |
| September 7, 2004 | 1 session |
| January 14, 2005 | 1 session |
| February 14, 2005 | 1 session |
| Fourteen (14) Hearing sessions @ \$1,200.00 | = \$16,800.00 |
| Hearing Dates: | |
| January 18, 2005 | 2 sessions |
| January 19, 2005 | 2 sessions |
| January 20, 2005 | 2 sessions |
| February 23, 2005 | 2 sessions |
| February 24, 2005 | 2 sessions |
| March 28, 2005 | 2 sessions |
| April 11, 2005 | 2 sessions |
| <hr/> Total Forum Fees | <hr/> = \$20,400.00 |

1. The Panel has assessed \$10,200.00 of the forum fees against Claimant.
2. The Panel has assessed \$10,200.00 of the forum fees against Respondent UBS.

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 are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Respondent UBS requested copies of the hearing tapes = \$ 270.00

Fee Summary

1. Claimant is solely liable for:

| | |
|-------------------------------------|----------------------|
| Initial Filing Fee | = \$ 600.00 |
| <u>Forum Fees</u> | <u>= \$10,200.00</u> |
| Total Fees | = \$10,800.00 |
| <u>Less payments</u> | <u>= \$ 1,800.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 9,000.00 |

2. Respondent UBS is solely liable for:

| | |
|-------------------------------------|----------------------|
| Counterclaim Filing Fee | = \$ 500.00 |
| Member Fees | = \$10,000.00 |
| Administrative fees | = \$ 270.00 |
| <u>Forum Fees</u> | <u>= \$10,200.00</u> |
| Total Fees | = \$20,970.00 |
| <u>Less payments</u> | <u>= \$11,650.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 9,320.00 |

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

NASD REGULATION

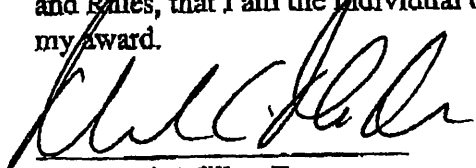
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ARBITRATION PANEL

| | | |
|-------------------------|---|------------------------------------------|
| Michael C. Miller, Esq. | - | Public Arbitrator, Presiding Chairperson |
| Jean C. Black | - | Public Arbitrator |
| Robert L. Spangler | - | 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 instrument which is my award.



Michael C. Miller, Esq.
Public Arbitrator, Presiding Chairperson

4/13/05

Signature Date

Jean C. Black
Public Arbitrator

Signature Date

Robert L. Spangler
Non-Public Arbitrator

Signature Date

April 21, 2005

Date of Service (For NASD Dispute Resolution use only)

NASD Dispute Resolution
Arbitration No. 04-01240
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ARBITRATION PANEL

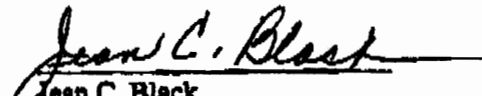
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| Michael C. Miller, Esq. | - | Public Arbitrator, Presiding Chairperson |
| Jean C. Black | - | Public Arbitrator |
| Robert L. Spangler | - | Non-Public Arbitrator |

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 instrument which is my award.

Michael C. Miller, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Jean C. Black
Public Arbitrator

Signature Date

Robert L. Spangler
Non-Public Arbitrator

Signature Date

April 21, 2005
Date of Service (For NASD Dispute Resolution use only)

04-1240

ARBITRATION PANEL

| | | |
|-------------------------|---|------------------------------------------|
| Michael C. Miller, Esq. | - | Public Arbitrator, Presiding Chairperson |
| Jean C. Black | - | Public Arbitrator |
| Robert L. Spangler | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

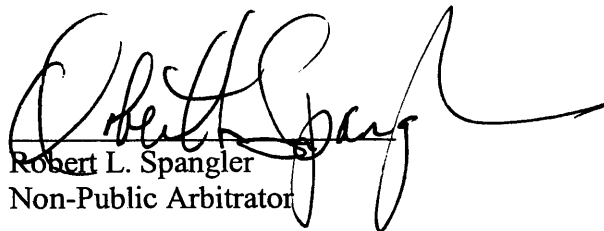
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Michael C. Miller, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Jean C. Black
Public Arbitrator

Signature Date


Robert L. Spangler
Non-Public Arbitrator

4-16-05
Signature Date

April 21, 2005
Date of Service (For NASD Dispute Resolution use only)