

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimants/Counter-Respondents
UBS Financial Services Inc.
UBS Credit Corp.

Case Number: 15-02079

vs.

Respondent/Counter-Claimant
Stephen Travis Creekbaum

Hearing Site: Birmingham, Alabama

Nature of the Disputes: Member and Non-Member vs. Associated Person
Associated Person vs Member and Non-Member

REPRESENTATION OF PARTIES

For Claimant/Counter-Respondents UBS Financial Services Inc. and UBS Credit Corp., (hereinafter collectively referred to as "Claimants"): James L. Komie, Esq. and Laurie A. Perez, Esq., Howard & Howard Attorneys PLLC, Chicago, Illinois.

For Respondent/Counter-Claimant Stephen Travis Creekbaum, ("Respondent"): Jarrod J. Malone, Esq. and Brandon M. Taaffe, Esq., Shumaker, Loop & Kendrick, LLP, Sarasota, Florida.

CASE INFORMATION

Statement of Claim filed on or about: August 11, 2015.

Statement of Answer to Respondent's Counterclaim filed by Claimants on or about: December 9, 2015.

Claimants signed the Submission Agreement: August 11, 2015.

Statement of Answer and Counterclaim filed by Respondent on or about: October 22, 2015.

Respondent signed the Submission Agreement: October 6, 2015.

CASE SUMMARY

Claimants alleged that Respondent breached the terms of six promissory notes (and the accompanying Transition Agreement or Deferred Cash Award Agreement) identified as:

1) Note #2085 dated December 23, 2008; 2) Note #200179 dated July 27, 2009; 3) Note #B00005042U dated December 3, 2010; 4) Note #B00007171N dated December 7, 2011; 5) Note F00006433N dated March 12, 2014; and 6) Note #F00009919N dated February 20, 2015 (hereinafter collectively referred to as the "Promissory Notes"). Claimants alleged that Respondent failed to pay the remaining balance due and payable under the Promissory Notes upon the termination of Respondent's employment with Claimants and was unjustly enriched as a result.

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

In his Counterclaim, Respondent asserted the following causes of action: breach of duty of good faith and fair dealing; breach of fiduciary duty; breach of contract; unjust enrichment; equity; defamation; and fraud.

Unless specifically admitted in the Statement of Answer to the Counterclaim, Claimants denied the allegations made in the Counterclaim and asserted various additional, other and affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested:

1. Damages in an amount of \$526,218.22, plus accrued interest as provided in the Promissory Notes;
2. Costs of arbitration, including filing fees, forum fees, attorneys' fees and interest; and
3. Such other and further relief as may be just and proper.

In the Statement of Answer and Counterclaim, Respondent requested:

1. Compensatory damages for loss of income, business, deferred compensation, upfront deal lost and for mental pain and anguish;
2. Punitive damages;
3. Pre-award interest;
4. Forum fees and costs, including expert witness fees;
5. Attorneys' fees;
6. Cancellation of the balance of the Promissory Notes;
7. Expungement of Respondent's Form U5; and
8. Such other and further relief as may be appropriate.

In the Statement of Answer to the Counterclaim, Claimants requested:

1. Denial and dismissal of the Counterclaim;
2. All appropriate relief for having to defend the claims;
3. Respondent take nothing by way of his Counterclaim;
4. An award be issued against Respondent and in favor of Claimants;
5. Interest, costs, fees (including but not limited to attorneys' fees) and disbursements in connection with this action; and
6. All such further relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On July 10, 2018, Respondent filed a motion for sanctions due to Claimants' alleged improper withholding of documents. On July 20, Claimants filed an opposition to Respondent's motion. On July 26, Respondent filed a reply in support of his motion. On July 30, Claimants filed a sur-reply. On August 8, the Panel held a pre-hearing conference to hear oral argument on Respondent's motion. By Order dated August 9, 2018, the Panel required Claimants to produce certain documents and emails and denied the motion for sanctions.

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 denied in their entirety.
2. Respondent's Counterclaim is denied in its entirety.
3. Respondent's request for expungement of his Form U5 is denied.
4. Any and all claims for relief not specifically addressed herein, including the parties' requests for attorneys' fees and Respondent's request for punitive damages, are denied.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

FINRA Office of Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing Fee	= \$ 2,550.00
Counterclaim Filing Fee	= \$ 1,575.00

**The filing fee is made up of a non-refundable and a refundable portion.*

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, UBS Financial Services Inc. is assessed the following:

Member Surcharge	= \$ 2,475.00
Member Process Fee	= \$ 5,075.00

Discovery-Related Motion Fee

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) arbitrator @ \$200.00/decision	= \$ 200.00
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Claimants submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	= \$ 200.00
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The Panel has assessed \$200.00 of the discovery-related motion fees jointly and severally to Claimants.

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A 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. Fees associated with these proceedings are:

Four (4) pre-hearing sessions with the Panel @ \$1,300.00/session	= \$ 5,200.00
Pre-hearing conferences:	
January 27, 2016	1 session
January 9, 2018	1 session
June 28, 2018	1 session
August 8, 2018	1 session

Eight (8) hearing sessions @ \$1,300.00/session	= \$10,400.00
Hearing Dates:	
September 17, 2018	2 sessions
September 18, 2018	2 sessions
September 19, 2018	2 sessions
September 20, 2018	2 sessions

Total Hearing Session Fees	= \$15,600.00
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The Panel has assessed \$12,350.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$3,250.00 of the hearing session fees to Respondent.

All balances are payable to FINRA Office of Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Debra Black Leo	-	Public Arbitrator, Presiding Chairperson
Charles Lange Clark	-	Public Arbitrator
Emily Sides Bonds	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

Concurring Arbitrators' Signatures



Debra Black Leo
Public Arbitrator, Presiding Chairperson

10/22/18

Signature Date

Charles Lange Clark
Public Arbitrator

Signature Date

Emily Sides Bonds
Non-Public Arbitrator

Signature Date

October 23, 2018
Date of Service (For FINRA Office of Dispute Resolution office use only)

ARBITRATION PANEL

Debra Black Leo	-	Public Arbitrator, Presiding Chairperson
Charles Lange Clark	-	Public Arbitrator
Emily Sides Bonds	-	Non-Public Arbitrator

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Public Arbitrator, Presiding Chairperson

Signature Date



Charles Lange Clark
Public Arbitrator



Signature Date

Emily Sides Bonds
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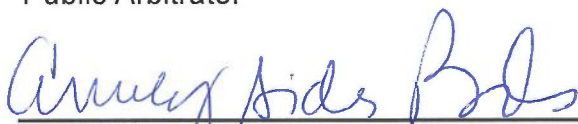
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Debra Black Leo
Public Arbitrator, Presiding Chairperson

Signature Date

Charles Lange Clark
Public Arbitrator

Signature Date



Emily Sides Bonds
Non-Public Arbitrator

10-23-18
Signature Date

October 23, 2018
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