

Award
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Claimant/Counter-Respondent
UBS Financial Services Inc.

Case Number: 10-05701

vs.

Respondent/Counter-Claimant
James Scott Cave

Hearing Site: San Francisco, California

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

REPRESENTATION OF PARTIES

Claimant/Counter-Respondent UBS Financial Services Inc., hereinafter referred to as "Claimant": Devin A. Donohue, Esq. and John R. Banford, Esq., Palmer, Lombardi & Donohue LLP, Los Angeles, California.

Respondent/Counter-Claimant James Scott Cave, hereinafter referred to as "Respondent": Montgomery G. Griffin, Esq., Law Offices of Montgomery G. Griffin, Newport Beach, California.

CASE INFORMATION

Statement of Claim filed on or about: December 20, 2010

Claimant signed the Submission Agreement: December 20, 2010

Statement of Answer and Counterclaim filed by Respondent on or about: March 21, 2011

Respondent signed the Submission Agreement: March 21, 2011

Statement of Answer to the Counterclaim filed by Claimant on or about: April 13, 2011

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract; common count for money lent; and common count for account stated. Claimant's claim involves a promissory note executed by Respondent on or about September 2, 2008 that became due and payable upon the termination of Respondent's employment with Claimant.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In the Counterclaim, Respondent asserted the following causes of action: fraud; constructive wrongful termination; violation of the Fair Employment and Housing Act; unjust enrichment; breach of contract; breach of implied covenant of good faith and fair dealing; violation of Federal and California Fair Debt Collection Acts; and intentional infliction of emotional distress.

Unless specifically admitted in its Answer, Claimant denied the allegations made in the Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Payment of the outstanding principal due and owing in the amount of \$159,114.50;
2. Interest;
3. Costs and expenses;
4. Attorneys' fees; and
5. Such other and further relief as the Panel deems just and proper.

In his Answer and Counterclaim, Respondent requested:

1. A determination that any unpaid balance of the promissory note be forgiven;
2. Compensatory damages of at least \$500,000.00;
3. Statutory interest;
4. Punitive damages;
5. Attorneys' fees;
6. Costs; and
7. Such other and further relief as the Panel deems just and proper.

In its Answer to the Counterclaim, Claimant requested:

1. Respondent's Counterclaim be dismissed in its entirety;
2. An award against Respondent for the amount set forth in the Statement of Claim; and
3. Such other and 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.

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 \$145,593.00, payable over five years at the rate of \$29,118.60 per year. The first payment is due on June 1, 2013.
2. Respondent's Counterclaim is denied in its entirety.
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

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

Initial Claim Filing fee	= \$ 2,125.00
Counterclaim Filing fee	= \$ 1,425.00

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

Pursuant to Armendariz v. Foundation Health Psychcare Services, Inc., 24 Cal. 4th 83 (2000), Respondent James Scott Cave is assessed a \$200.00 filing fee. The balance of the non-refundable portion of the filing fee, in the amount of \$100.00, is assessed to Claimant UBS Financial Services Inc.

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	= \$ 1,700.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

February 14 – 17, 2012, adjournment by Respondent	= \$ 1,125.00
Total Adjournment Fees	= \$ 1,125.00

Pursuant to Armendariz v. Foundation Health Psychcare Services, Inc., 24 Cal. 4th 83 (2000), the Panel has assessed \$1,125.00 of the adjournment fees solely to Claimant UBS Financial Services Inc.

Discovery-Related Motion Fees

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

One (1) Decision on a discovery-related motion on the papers

with (1) one arbitrator @ \$200.00 = \$ 200.00
Claimant submitted (1) discovery-related motion

Total Discovery-Related Motion Fees = \$ 200.00

Pursuant to Armendariz v. Foundation Health Psychcare Services., Inc., 24 Cal. 4th 83 (2000), the Panel has assessed \$200.00 of the discovery-related motion fees solely to Claimant UBS Financial Services Inc.

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:

Two (2) Pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 2,250.00
Pre-hearing conferences: May 31, 2011 1 session
May 4, 2012 1 session

Five (5) Hearing sessions @ \$1,125.00/session = \$ 5,625.00
Hearing Dates: October 29, 2012 2 sessions
October 30, 2012 2 sessions
October 31, 2012 1 session

Total Hearing Session Fees = \$ 7,875.00

Pursuant to Armendariz v. Foundation Health Psychcare Services., Inc., 24 Cal. 4th 83 (2000), the Panel has assessed \$7,875.00 of the hearing session fees solely to Claimant UBS Financial Services Inc.

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

ARBITRATION PANEL

William J. Petzel	-	Public Arbitrator, Presiding Chairperson
Nancy Hutt	-	Public Arbitrator
Judith M. Rosenberg	-	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



William J. Petzel
Public Arbitrator, Presiding Chairperson



Signature Date

Nancy Hutt
Public Arbitrator

Signature Date

Judith M. Rosenberg
Non-Public Arbitrator

Signature Date

November 14, 2012
Date of Service (For FINRA Dispute Resolution office use only)

ARBITRATION PANEL

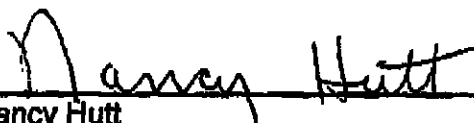
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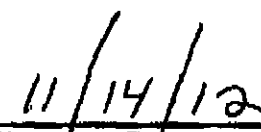
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11/13/2012

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November 14, 2012

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