

**Award  
FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

Jason Cohen, individually, and on behalf of Oracle Services, Inc., FBO Jason Cohen  
(Claimants) vs. UBS Financial Services, Inc. (Respondent)

Case Number: 07-00114

Hearing Site: New York, New York

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Nature of the Dispute: Customers vs. Member.

**REPRESENTATION OF PARTIES**

Claimants Jason Cohen, individually, and on behalf of Oracle Services, Inc., FBO Jason Cohen, hereinafter referred to as "Claimants": Ross B. Intelisano, Esq., and John G. Rich, Esq., Rich & Intelisano, LLP, New York, NY.

Respondent UBS Financial Services, Inc., hereinafter referred to as "Respondent": Joseph Serino, Jr., Esq., Kirkland & Ellis LLP, New York, NY and David L. Goldberg, Esq., UBS Financial Services, Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: January 12, 2007.  
Jason Cohen signed the Uniform Submission Agreement: January 10, 2007.  
Oracle Services, Inc., signed the Uniform Submission Agreement: January 10, 2007.

Statement of Answer filed by Respondent on or about: March 7, 2007.  
UBS signed the Uniform Submission Agreement: March 7, 2007.

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty, breach of customer agreement, negligence, gross negligence, negligent supervision, failure to supervise, and respondeat superior.

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

**RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$1,800,000.00, rescissionary [sic] damages and other damages, disgorgement of UBS's compensation,

punitive damages, accrued interest on \$3,000,000.00 from January 23, 2006 until October 23, 2006, and accrued interest on \$1,800,000.00 from October 2006 until the date of the award, attorneys' fees, costs, expert and witness fees and administrative expenses, and any other further relief the arbitration panel finds just and equitable.

Respondent requested the dismissal of the Statement of Claim in its entirety, an award of its costs, and such other and further relief as the Panel deems appropriate.

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

Prior to the hearing, Respondent filed a Motion to Dismiss. The Panel deferred decision on the Motion to the hearing. After due deliberation, the Panel denied the Motion.

At the hearing Claimants reduced their request for compensatory damages to \$1,598,275.00.

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, pre-hearing briefs, 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 Jason Cohen compensatory damages in the amount of \$500,000.00 plus interest at the rate of 6% per annum accruing from October 23, 2006 until the date the award is paid.
2. The Panel specifically denies any claims of Claimant Oracle Services, Inc., FBO Jason Cohen.
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 will retain or collect the non-refundable filing fees for each claim:

Initial claim 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 Financial Services, Inc. is a party.

Member surcharge = \$ 2,800.00

Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$ 5,000.00

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted or each decision rendered on either a discovery-related motion on the papers or a contested motion for the issuance of a subpoena. 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 a single arbitrator @ \$450.00 = \$ 450.00  
Pre-hearing conference: September 26, 2007 1 session

One (1) Pre-hearing session with Panel @ \$1,200.00 = \$ 1,200.00  
Pre-hearing conference: May 17, 2007 1 session

Fourteen (14) Hearing sessions @ \$1,200.00 = \$16,800.00  
Hearing Dates: January 29, 2008 2 sessions  
January 30, 2008 2 sessions  
January 31, 2008 2 sessions  
February 1, 2008 2 sessions  
February 5, 2008 2 sessions  
February 6, 2008 2 sessions  
February 7, 2008 2 sessions

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Total Forum Fees = \$18,450.00

1. The Panel has assessed \$9,225.00 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$9,225.00 of the forum fees to Respondent.

**Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$ 9,225.00
<u>Total Fees</u>	= \$ 9,725.00
<u>Less payments</u>	= \$ 1,700.00
Balance Due FINRA Dispute Resolution	= \$ 8,025.00

2. Respondent is solely liable for:

Member Fees	= \$ 8,550.00
<u>Forum Fees</u>	= \$ 9,225.00
<u>Total Fees</u>	= \$17,775.00
<u>Less payments</u>	= \$ 9,150.00
Balance Due FINRA Dispute Resolution	= \$ 8,625.00


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

**ARBITRATION PANEL**

Irene Zatkun-Butler - Public Arbitrator, Presiding Chairperson  
Howard Weitz - Public Arbitrator  
Arthur P. Fisch - Non-Public Arbitrator

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.

**Concurring Arbitrators' Signatures**

  
Irene Zatkun-Butler  
Public Arbitrator, Presiding Chairperson

February 27, 2008  
Signature Date

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Howard Weitz  
Public Arbitrator

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

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Arthur P. Fisch  
Non-Public Arbitrator

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Signature Date

February 27, 2008  
Date of Service (For FINRA Dispute Resolution use only)

**ARBITRATION PANEL**

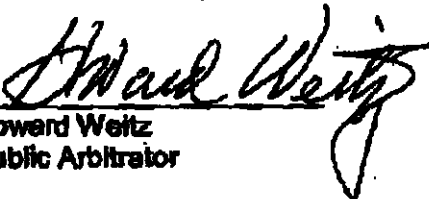
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