

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimants

B. Terry Bryant and  
Memorial Rock Investments, L.P.

Case Number: 20-03798

vs.

Respondent

UBS Financial Services Inc.

Hearing Site: Houston, Texas

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Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Customers vs. Member

This case was decided by an all-public panel.

**REPRESENTATION OF PARTIES**

For Claimants B. Terry Bryant and Memorial Rock Investments, L.P. (collectively, “Claimants”): Lance C. Arney, Esq., Gregor|Wynne|Arney, PLLC, Houston, Texas.

For Respondent UBS Financial Services Inc. (“Respondent”): David L. Goldberg, Esq., Katten Muchin Rosenman LLP, New York, New York and Charlotte S. Wolfe, Esq., UBS Business Solutions US LLC, Nashville, Tennessee.

**CASE INFORMATION**

Statement of Claim filed on or about: November 13, 2020.  
Claimants signed the Submission Agreement: November 13, 2020.

Statement of Answer filed on or about: March 4, 2021.  
Respondent signed the Submission Agreement: November 17, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimants asserted the following causes of action: violations of state and federal securities laws (securities fraud), fraud; breach of fiduciary duty, negligence, gross negligence, negligent supervision, and breach of contract. The causes of action related to Claimants’ allegation that they were solicited to invest in a high-risk options trading strategy, the Yield Enhancement Strategy (“YES”), which was misrepresented to Claimants and inconsistent with Claimants’ risk tolerances and investment objectives.

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

### **RELIEF REQUESTED**

In the Statement of Claim, Claimants requested compensatory damages of \$1,775,430.13; general and special damages, including, but not limited to lost principal and interest thereon at the statutory rate; exemplary, punitive, and statutory damages appropriate under the circumstances; restitution/disgorgement of transaction costs and fees paid by Claimants and disgorgement of commissions and other profits received by Respondent for the YES program; costs and forum fees; reasonable and necessary attorneys' fees; and any other relief the Panel deems appropriate.

In the Statement of Answer, Respondent requested an award against Claimants dismissing the Statement of Claim in its entirety and with prejudice and 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 Award in this matter may be executed in counterpart copies.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, 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 Claimants the sum of \$1,184,211.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimants interest on the above-stated sum at the rate of 6% per annum from June 28, 2019 through and including March 7, 2022.
3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, are denied.

### **FEES**

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

#### **Filing Fees**

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

Initial Claim Filing Fee	= \$ 2,000.00
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*\*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, Respondent is assessed the following:

Member Surcharge	= \$	3,025.00
Member Process Fee	= \$	6,175.00

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

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	= \$	450.00
Pre-Hearing Conference: February 15, 2022	1 session	
Two (2) pre-hearing sessions with the Panel @ \$1,400.00/session	= \$	2,800.00
Pre-Hearing Conferences: March 8, 2021	1 session	
February 10, 2022	1 session	
Ten (10) hearing sessions @ \$1,400.00/session	= \$	14,000.00
Hearings: March 7, 2022	2 sessions	
March 8, 2022	2 sessions	
March 9, 2022	2 sessions	
March 10, 2022	2 sessions	
March 11, 2022	2 sessions	

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Total Hearing Session Fees	= \$	17,250.00
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The Panel has assessed \$9,325.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$7,925.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Elena Dilorio	-	Public Arbitrator, Presiding Chairperson
Daniel J. Pagnano	-	Public Arbitrator
Bartlett Michael Sheinberg	-	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**

***Elena Dilorio***

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Elena Dilorio  
Public Arbitrator, Presiding Chairperson

***03/24/2022***

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

***Daniel J. Pagnano***

\_\_\_\_\_  
Daniel J. Pagnano  
Public Arbitrator

***03/23/2022***

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

***Bartlett Michael Sheinberg***

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Bartlett Michael Sheinberg  
Public Arbitrator

***03/24/2022***

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

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March 24, 2022

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Date of Service (For FINRA Dispute Resolution Services use only)