

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Kelly Goldsmith

Case Number: 23-01310

vs.

Respondent
UBS Financial Services Inc.

Hearing Site: Columbia, South Carolina

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: Customer vs. Member

This case was decided by an all-public panel.

The evidentiary hearing was conducted partially by videoconference.

REPRESENTATION OF PARTIES

For Claimant Kelly Goldsmith: Bruce D. Oakes, Esq. and Richard B. Fosher, Esq., Oakes & Fosher, LLC, St. Louis, Missouri.

For Respondent UBS Financial Services Inc. (“UBS”): Anthony J. Borrelli, Esq. and Rebecca A. Borgese, Esq., Riker Danzig LLP, Madison, New Jersey.

CASE INFORMATION

Statement of Claim filed by Claimant on or about: May 10, 2023.
Kelly Goldsmith signed the Submission Agreement: May 10, 2023.

Statement of Answer filed by Respondent UBS on or about: July 14, 2023.
UBS Financial Services Inc. signed the Submission Agreement: July 24, 2023.

Amended Statement of Claim filed by Claimant on or about: February 11, 2025.

Statement of Answer to the Amended Statement of Claim filed by Respondent UBS on or about: March 3, 2025.

CASE SUMMARY

In the Statement of Claim, as amended, Claimant asserted the following causes of action: breach of fiduciary duty; breach of contract; negligence; negligent misrepresentation; omission; common law fraud; restitution; and negligent supervision. The causes of action relate to the purchase of a variable annuity with Claimant's retirement funds and the use of margin in Claimant's account.

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

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimant requested: compensatory damages in the amount of \$2,000,000.00; punitive damages; pre-judgment interest; reasonable attorneys' fees and costs; filing and forum fees; and such other and further relief which the Panel deemed just and proper under the circumstances.

In the Statement of Answer to the Amended Statement of Claim, Respondent UBS requested an award against Claimant and dismissal the Statement of Claim in its entirety and with prejudice.

OTHER ISSUES CONSIDERED AND DECIDED

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

On November 22, 2024, Respondent UBS filed a Motion to Dismiss pursuant to Rule 12206 of the Code of Arbitration Procedure ("Code"). On January 22, 2025, Claimant filed a response opposing the Motion to Dismiss. On February 3, 2025, Respondent filed a Reply in further support of their Motion to Dismiss. On April 15, 2025, the Panel heard oral arguments on the Motion to Dismiss. On April 22, 2025, the Panel issued an Order in which it denied the Motion to Dismiss without prejudice.

On December 9, 2024, Claimant filed a Motion to Amend the Statement of Claim to clarify and add certain factual statements, some of which were based on documents and information received during the discovery process, and to increase the amount of damages requested from \$400,000.00 to \$2,000,000.00. On December 19, 2024, Respondent filed its Opposition to Claimant's Motion to Amend. On December 20, 2024, Claimant filed his Reply to Respondent's Opposition to Claimant's Motion to Amend. On February 11, 2025, the Panel heard oral arguments on the Motion to Amend and subsequently issued an Order in which it granted Claimant's Motion to Amend.

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 UBS is liable for and shall pay to Claimant the sum of \$1,179,169.00 in compensatory damages.
2. Respondent UBS is liable for and shall pay to Claimant the sum of \$36,335.00 in costs.
3. Respondent UBS is liable and shall reimburse Claimant the sum of \$625.00, which represents the non-refundable portion of the filing fee previously paid by Claimant to FINRA Dispute Resolution Services.
4. 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, the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee =\$ 2,025.00

*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, Respondent UBS is assessed the following:

Member Surcharge =\$ 3,200.00

Member Process Fee =\$ 10,250.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

October 14-17, 2025, joint postponement requested =\$ 1,435.00

Total Postponement Fees =\$ 1,435.00

The Panel has assessed \$717.50 of the postponement fees to Claimant.

The Panel has assessed \$717.50 of the postponement fees to Respondent.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

October 14-17, 2025, joint cancellation request =\$ 1,200.00

Total Last-Minute Cancellation Fees = \$ 1,200.00

The Panel has assessed \$600.00 of the last-minute cancellation fees to Claimant.

The Panel has assessed \$600.00 of the last-minute cancellation fees to Respondent.

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:

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 2,250.00
Pre-Hearing Conferences: September 22, 2023 1 session
February 11, 2025 1 session

One (1) pre-hearing session with the Panel @ \$1,435.00/session = \$ 1,435.00
Pre-Hearing Conference: April 15, 2025 1 session

Five (5) hearing sessions @ \$1,435.00/session = \$ 7,175.00
Hearings: April 14, 2026 2 sessions
April 15, 2026 2 sessions
April 16, 2026 1 session

Total Hearing Session Fees = \$ 10,860.00

The Panel has assessed \$562.50 of the hearing session fees to Claimant.

The Panel has assessed \$10,297.50 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

John Winslow Griesser	-	Public Arbitrator, Presiding Chairperson
John A. Baynes, III	-	Public Arbitrator
Yolanda Michelle Ahmad	-	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

John Winslow Griesser

John Winslow Griesser
Public Arbitrator, Presiding Chairperson

05/06/2026

Signature Date

John A. Baynes, III

John A. Baynes, III
Public Arbitrator

05/06/2026

Signature Date

Yolanda Michelle Ahmad

Yolanda Michelle Ahmad
Public Arbitrator

05/06/2026

Signature Date

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May 07, 2026

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