

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Matthew V. Fisher and Lisa G. Fisher

Case Number: 19-02702

vs.

Respondent

UBS Financial Services Inc.

Hearing Site: Columbus, Ohio

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.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimants Matthew V. Fisher and Lisa G. Fisher (“Claimants”): Jeffrey B. Kaplan, Esq. and Simon Lassel, Esq., Dimond Kaplan & Rothstein, P.A., Miami, Florida.

For Respondent UBS Financial Services Inc. (“Respondent”): David L. Goldberg, Esq., Katten Muchin Rosenman LLP, New York, New York and Patrick M. Smith, Esq. and Timothy A. White, Esq., Katten Muchin Rosenman LLP, Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: September 9, 2019.

Claimants signed the Submission Agreement: September 9, 2019.

Statement of Answer filed on or about: November 20, 2019.

Respondent signed the Submission Agreement: September 9, 2019.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: negligence, negligent misrepresentation, breach of fiduciary duty, breach of contract, negligent supervision, and violation of the Ohio Securities Act. The causes of action related to Claimants’ allegation that Respondent presented the Yield Enhancement Strategy (“YES”), an options strategy, as

low-risk when the complexity and nature of YES actually exposed Claimants to significant risk of loss.

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 damages based on fairness and equity, compensatory damages of \$455,000.00, pre-judgment interest at the statutory rate, costs and expenses, punitive damages in an amount sufficient to punish a corporation with the net worth of Respondent, and such other and additional relief as the Panel may deem just and proper.

In the Statement of Answer, Respondent requested that the Statement of Claim be dismissed in its entirety and with prejudice; expungement, on behalf of Unnamed Parties Ortal Shachar ("Shachar") and Richard Mark Held ("Held"), of all references to this matter from the Central Registration Depository ("CRD") registration records; and such other and further relief as the Panel deems just and proper.

At the hearing, Claimants requested a total of \$1,669,477.49, as follows: \$432,668.49 in compensatory damages, including \$402,503.00 for out-of-pocket losses and \$30,165.49 in pre-judgment interest; \$29,300.00 in costs and expenses; and \$1,207,509.00 for punitive damages.

Respondent also requested expungement of all references to this matter from CRD registration records for Unnamed Party Frederick Maximilian Kort ("Kort"). Please see the Other Issues Considered and Decided section of this Award for more information.

OTHER ISSUES CONSIDERED AND DECIDED

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

On October 2, 2020, Claimants filed a Request for Zoom Final Hearing. On October 9, 2020, Respondent filed an Opposition to Claimants' Request for Zoom Final Hearing. In an Order dated October 16, 2020, the Panel granted Claimants' Request for Zoom Final Hearing.

On March 18, 2021, Respondent filed correspondence confirming that it was requesting expungement of all references to this matter from CRD registration records on behalf of Kort, Shachar, and Held.

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 \$342,127.55 in compensatory damages.
2. Respondent is liable for and shall pay to Claimants the sum of \$27,875.00 in costs for expert witness fees.
3. Respondent is liable for and shall pay to Claimants the sum of \$589.42 in costs for copies and mailing fees.
4. Respondent is liable for and shall pay to Claimants the sum of \$300.00 in costs as reimbursement for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.
5. Respondent's request for expungement on behalf of Shachar of the above-captioned arbitration (Occurrence Number 2049508) from his registration records maintained by the CRD is denied.
6. Respondent's request for expungement on behalf of Held of the above-captioned arbitration (Occurrence Number 2052183) from his registration records maintained by the CRD is denied.
7. Respondent's request for expungement on behalf of Kort of the above-captioned arbitration (Occurrence Number 2051133) from his registration records maintained by the CRD is denied.
8. 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	=\$ 1,425.00
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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	=\$ 1,900.00
Member Process Fee	=\$ 3,750.00

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:

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	2,250.00
Pre-Hearing Conferences: January 13, 2020	1 session	
February 16, 2021	1 session	

Eleven (11) hearing sessions @ \$1,125.00/session	= \$	12,375.00
Hearings: March 9, 2021	2 sessions	
March 10, 2021	2 sessions	
March 11, 2021	2 sessions	
March 12, 2021	2 sessions	
March 15, 2021	2 sessions	
March 16, 2021	1 session	

Total Hearing Session Fees	= \$	14,625.00
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The Panel has assessed \$1,125.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$13,500.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Lynn Hirschfeld Brahin	-	Public Arbitrator, Presiding Chairperson
Paul Lansing	-	Public Arbitrator
Marvin Brown	-	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

Lynn Hirschfeld Brahin

Lynn Hirschfeld Brahin
Public Arbitrator, Presiding Chairperson

03/31/2021

Signature Date

Paul Lansing

Paul Lansing
Public Arbitrator

03/31/2021

Signature Date

Marvin Brown

Marvin Brown
Public Arbitrator

03/31/2021

Signature Date

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March 31, 2021

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