

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

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In the Matter of the Arbitration Between:

Claimants  
John Oren and Elise Oren

Case Number: 20-03856

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.

The evidentiary hearing was conducted partially by videoconference.

**REPRESENTATION OF PARTIES**

For Claimants John Oren, and Elise Oren (collectively, “Claimants”): Jeffrey Erez, Esq., Erez Law, PLLC, Miami, Florida.

For Respondent UBS Financial Services Inc. (“Respondent”): Rebecca K. Lindahl, Esq., Katten, Muchin, Rosenman, LLP, Charlotte, North Carolina.

**CASE INFORMATION**

Statement of Claim filed on or about: November 19, 2020.

Claimants signed the Submission Agreement: November 18, 2020.

Statement of Answer filed on or about: January 8, 2021.

Respondent signed the Submission Agreement: November 20, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimants asserted the following causes of action: breach of fiduciary duty, negligence, negligent supervision, fraud, breach of contract, violation of Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934, and violation of the Texas Securities Act. The causes of action related to Claimants’ allegation that Respondent recommended a highly speculative managed account options strategy product, the Yield Enhancement Strategy

(“YES”), which was unsuitable and inappropriate for 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 damages between \$1,000,000.00 and \$5,000,000.00, punitive damages, interest, costs, attorneys’ fees, and such other and further relief as the Panel deems just and proper.

In the Statement of Answer, Respondent requested an award dismissing the Statement of Claim in its entirety and with prejudice; expungement of all references to this matter from Central Registration Depository (“CRD”) registration records on behalf of Unnamed Parties Francis Amsler (“Amsler”) and Marc Laborde (“Laborde”); and such other and further relief as the Panel deems just and proper.

At the hearing, Claimants requested damages in a range of \$2,271,227.00 (consisting of net out-of-pocket damages of \$2,016,045.00, plus \$255,182.00 in pre-judgment interest) to \$2,896,972.00 (consisting of \$2,571,485.00 benefit of the bargain damages, plus \$325,487.00 in pre-judgment interest) and \$2,304,038.00 pursuant to Texas Securities Act for damages/simple interest.

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

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

Respondent did not pursue the request for expungement on behalf of Unnamed Parties Amsler and Laborde. Accordingly, the Panel made no determination on the issue of expungement with respect to Unnamed Parties Amsler and Laborde.

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 \$2,896,972.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimants the sum of \$965,657.33 in attorneys’ fees pursuant to the Texas Securities Act.
3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and treble damages, 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
Expungement Filing Fee	= \$	3,150.00

\*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 is assessed the following:

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

### **Postponement Fees**

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

January 10-14, 2022, postponement requested by the parties	= \$	1,400.00
January 17-21, 2022, postponement requested by the parties	= \$	1,400.00
Total Postponement Fees	= \$	2,800.00

The Panel has assessed \$1,400.00 of the postponement fees jointly and severally to Claimants.

The Panel has assessed \$1,400.00 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:

January 10-14, 2022, cancellation requested by the parties	= \$	1,800.00
January 17-21, 2022, cancellation requested by the parties	= \$	1,800.00
Total Last-Minute Cancellation Fees	= \$	3,600.00

The Panel has assessed \$1,800.00 of the last-minute cancellation fees jointly and severally to Claimants.

The Panel has assessed \$1,800.00 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:

Five (5) pre-hearing sessions with the Panel @ \$1,400.00/session	= \$ 7,000.00
Pre-Hearing Conferences: April 27, 2021	1 session
December 10, 2021	1 session
January 5, 2022	1 session
January 10, 2022	1 session
January 18, 2022	1 session
Fifteen (15) hearing sessions @ \$1,400.00/session	= \$ 21,000.00
Hearings:	
March 15, 2022	2 sessions
March 16, 2022	2 sessions
March 17, 2022	2 sessions
March 18, 2022	2 sessions
March 28, 2022	2 sessions
March 29, 2022	2 sessions
March 30, 2022	2 sessions
March 31, 2022	1 session
Total Hearing Session Fees	= \$ 28,000.00

The Panel has assessed \$3,500.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$24,500.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Brian James Tagtmeier	-	Public Arbitrator, Presiding Chairperson
David Aaron DeSoto	-	Public Arbitrator
Nile Bailey Copeland	-	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**

***Brian James Tagtmeier***

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Brian James Tagtmeier  
Public Arbitrator, Presiding Chairperson

**05/05/2022**

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Signature Date

***David Aaron DeSoto***

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David Aaron DeSoto  
Public Arbitrator

**05/04/2022**

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Signature Date

***Nile Bailey Copeland***

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Nile Bailey Copeland  
Public Arbitrator

**05/05/2022**

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Signature Date

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May 05, 2022

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