

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

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In the Matter of the Arbitration Between:

Claimants

Orlando Rodriguez Gonzalez  
Milagros Vila Maldonado

Case Number: 14-00304

vs.

Respondents

UBS Financial Services, Inc.  
UBS Financial Services Inc. of Puerto Rico

Hearing Site: San Juan, Puerto Rico

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Nature of the Dispute: Customers vs. Members

This case was decided by an all-public panel.

**REPRESENTATION OF PARTIES**

For Claimants Orlando Rodriguez Gonzalez and Milagros Vila Maldonado: Jeffrey Erez, Esq. and Jeffrey R. Sonn, Esq., Sonn & Erez, PLC, Miami, Florida, and Eliezer A. Aldarondo-Lopez, Esq. and Eliezer Aldarondo-Ortiz, Esq., Aldarondo & Lopez-Bras, Guaynabo, Puerto Rico.

For Respondents UBS Financial Services, Inc. ("UBS") and UBS Financial Services Inc. of Puerto Rico ("UBSPR"): Peter J. Macdonald, Esq., Wilmer Cutler Pickering Hale and Dorr, LLP, New York, New York, and Roberto C. Quinones, Esq., McConnell Valdes LLC, Hato Rey, Puerto Rico.

**CASE INFORMATION**

Statement of Claim filed on or about: January 29, 2014.  
Orlando Rodriguez Gonzalez signed the Submission Agreement: January 24, 2014.  
Milagros Vila Maldonado signed the Submission Agreement: January 24, 2014.

Statement of Answer filed by Respondents on or about: April 30, 2014.  
UBS signed the Submission Agreement: February 19, 2014.  
UBSPR signed the Submission Agreement: May 28, 2014.

**CASE SUMMARY**

In the Statement of Claim, Claimants asserted the following causes of action: omission of facts; respondeat superior; unsuitability; breach of fiduciary duty; negligence; failure to supervise; fraud; breach of contract; and violation of the Puerto Rico Uniform Securities Act. The causes of action relate to, among other things, Claimants' investments in Puerto Rico closed-end mutual funds concentrated in Puerto Rico bonds.

Unless specifically admitted in their Answer, Respondents 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 in excess of \$1,000,000.00; rescission; punitive damages; interest; costs; attorneys' fees; and such other and further relief this Panel deemed just and proper.

At the close of the hearing, Claimants requested compensatory damages in the range of \$3,000,000.00 to \$6,000,000.00.

In the Statement of Answer, Respondents requested: dismissal of Claimants' claims in their entirety, with prejudice; an assessment of FINRA fees and costs against Claimants; a recommendation of expungement of all references to this matter from the CRD records of any financial advisors or other UBS personnel identified in the Statement of Claim or otherwise affected by the Statement of Claim; and such other and further relief as the Panel deemed just and equitable.

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

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

During the evidentiary hearings, Respondents did not pursue their request for a recommendation of expungement of all references to this matter from the CRD records of any financial advisors or other UBS personnel identified in the Statement of Claim or otherwise affected by the Statement of Claim, as previously requested in Respondents' Statement of Answer. Therefore, the Panel made no determinations with respect thereto.

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, 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. Respondents are jointly and severally liable and shall pay to Claimants compensatory damages in the amount of \$2,545,000.00.
2. Claimants' request for pre-judgment interest is denied.
3. Respondents are liable and shall pay to Claimants post-award interest as of August 7, 2015, in accordance with the Code of Arbitration Procedure (the "Code").
4. Respondents are liable for and shall pay to Claimants \$600.00 as reimbursement for

the non-refundable portion of Claimants' initial claim filing fee previously paid to FINRA Dispute Resolution.

5. Any and all relief not specifically addressed herein, including Claimants' requests for punitive damages and attorneys' fees, is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial Claim Filing Fee	= \$ 1,800.00
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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 parties, Respondents UBS and UBSPR are assessed the following:

For UBS:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 5,000.00

For UBSPR:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 5,000.00

#### **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) that 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: April 28, 2015	1 session

One (1) Pre-hearing session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: September 8, 2014	1 session

Nineteen (19) Hearing sessions @ \$1,200.00/session	= \$22,800.00
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Hearing Dates:	July 24, 2015	2 sessions	
	July 25, 2015	3 sessions	
	July 26, 2015	2 sessions	
	July 27, 2015	3 sessions	
	July 28, 2015	3 sessions	
	July 29, 2015	2 sessions	
	July 30, 2015	2 sessions	
	July 31, 2015	1 session	
	August 6, 2015	1 session	
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Total Hearing Session Fees			= \$24,450.00

The Panel has assessed \$825.00 of the hearing session fees to Claimants, jointly and severally.

The Panel has assessed \$23,625.00 of the hearing session fees to Respondents, jointly and severally.

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

**ARBITRATION PANEL**

Kenneth R. Starr	-	Public Arbitrator, Presiding Chairperson
Edward R. Niederriter	-	Public Arbitrator
David Walton Earle	-	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**



8/11/15

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Kenneth R. Starr  
Public Arbitrator, Presiding Chairperson

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Signature Date

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Edward R. Niederriter  
Public Arbitrator

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Signature Date

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David Walton Earle  
Public Arbitrator

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Signature Date

8/11/15

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

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