

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

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In the Matter of the Arbitration Between:

Claimants

George Schussel  
Sandra Schussel

Case Number: 19-03373

vs.

Respondent

UBS Financial Services, Inc.

Hearing Site: Boca Raton, Florida

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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 George Schussel and Sandra Schussel: John G. Rich, Esq. and Ross. B. Intelisano, Esq., Rich, Intelisano & Katz, LLP, New York, New York, and Jacob H. Zamansky, Esq. and Edward H. Glenn, Jr., Esq., Zamansky, LLC, New York, New York.

For Respondent UBS Financial Services, Inc.: Christian T. Kemnitz, Esq., Zachary M. Schmitz, Esq., and Sarah Weber, Esq., Katten Muchin Rosenman, LLP, Chicago, Illinois; and Omar Perez, Esq., UBS Business Solutions US, LLC, Nashville, Tennessee.

**CASE INFORMATION**

Statement of Claim filed by Claimants on or about: November 12, 2019.  
Sandra Schussel signed the Submission Agreement: November 12, 2019.  
George Schussel signed the Submission Agreement: November 12, 2019.

Statement of Answer filed by Respondent on or about: February 18, 2020.  
UBS Financial Services, Inc. signed the Submission Agreement: November 12, 2019.

**CASE SUMMARY**

In the Statement of Claim, Claimants asserted the following causes of action: fraud; misrepresentation; unsuitability, unsuitable product; breach of fiduciary duty; negligence, and breach of contract under federal securities laws, FINRA regulations, Florida securities statutes,

and applicable common law. The causes of action relate to Claimant's investment in an options strategy product from Respondent called the Yield Enhancement Strategy ("YES").

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: equitable relief of rescission of all trading losses, mandates, and disgorgement of all margin interest and fees received by Respondent; compensatory damages of approximately \$6,500,000.00, including recovery of all trading losses, margin interest, and fees received by Respondent; recovery of pre-award and post-award interest, costs, expenses, attorneys' fees, expert fees, and forum fees of this arbitration; and punitive damages in such amount as the Panel deemed appropriate and just to punish and deter Respondent from any future similar conduct.

In the Statement of Answer, Respondent requested: dismissal of the Statement of Claim in its entirety with prejudice; expungement of this matter from the CRD record of Unnamed Party Jeremy Seidman (CRD Number 4706814 and Occurrence Number 2055931); and such other and further relief as the Panel deemed 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.

On August 9, 2022, Claimants filed a Motion in Limine to Exclude Evidence of Criminal Conviction. On August 19, 2022, Respondent filed a response in opposition to the Motion. On August 24, 2022, Claimants filed a reply in support of the Motion. On August 26, 2022, the Panel heard oral arguments on the Motion and subsequently denied the Motion.

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 \$5,028,412.00 in compensatory damages.
2. Respondent is liable and shall pay to Claimants pre-judgment interest on the above-stated sum at various rates under the Florida Statutes in the total amount of \$94,679.00.
3. Respondent is liable for and shall pay to Claimants post-award interest on the above-stated sum from date of award, through and including payment of this Award at the rate of 4.34%.
4. Respondent is liable for and shall pay to Claimants the sum of \$91,939.00 in costs.

5. Respondent's request for expungement of the above-captioned arbitration from Unnamed Party Jeremy Seidman's (CRD Number 4706814 and Occurrence Number 2055931) registration records maintained by the CRD is denied.
6. 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 ("Code"), the following fees are assessed:

#### **Filing Fees**

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

Initial Claim Filing Fee	=\$ 2,250.00
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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 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	=\$ 3,600.00
Member Process Fee	=\$ 6,800.00

#### **Postponement Fees**

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

January 18-21 and 24-27, 2022, postponement requested by parties	=\$ 1,500.00
August 22-26, 2022, postponement request by parties	=\$ 1,500.00

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Total Postponement Fees	=\$ 3,000.00
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The Panel has assessed \$2,250.00 of the postponement fees jointly and severally to Claimants.

The Panel has assessed \$750.00 of the postponement 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:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	=\$ 450.00
Pre-Hearing Conference: September 22, 2020 1 session	

Six (6) pre-hearing sessions with the Panel @ \$1,500.00/session	=\$ 9,000.00
Pre-Hearing Conferences: March 3, 2020 1 session	

January 14, 2021	1 session
December 29, 2021	1 session
January 14, 2022	1 session
July 14, 2022	1 session
August 26, 2022	1 session

Fourteen (14) hearing sessions with the Panel @ \$1,500.00/session = \$ 21,000.00

Hearings:

August 29, 2022	2 sessions
August 30, 2022	2 sessions
August 31, 2022	2 sessions
September 1, 2022	2 sessions
September 2, 2022	2 sessions
September 6, 2022	3 sessions
September 7, 2022	1 session

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Total Hearing Session Fees = \$ 30,450.00

The Panel has assessed \$1,500.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$28,950.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Gerald Silverman	-	Public Arbitrator, Presiding Chairperson
Nofrey Matthew Fornaro, III	-	Public Arbitrator
Daniel Nathan Schatz	-	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**

***Gerald Silverman***

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Gerald Silverman  
Public Arbitrator, Presiding Chairperson

**09/15/2022**

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Signature Date

***Nofrey Matthew Fornaro, III***

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Nofrey Matthew Fornaro, III  
Public Arbitrator

**09/15/2022**

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Signature Date

***Daniel Nathan Schatz***

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Daniel Nathan Schatz  
Public Arbitrator

**09/15/2022**

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Signature Date

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September 16, 2022

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