

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Jacques Andre Soileau
Jennifer Beth Plauche Soileau
Nexgen Investments, LLC

Case Number: 20-04077

vs.

Respondent

UBS Financial Services Inc.

Hearing Site: New Orleans, Louisiana

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 Jacques Andre Soileau, Jennifer Beth Plauche Soileau and Nexgen Investments, LLC: Jeffrey Erez, Esq., Erez Law, PLLC, Miami, Florida.

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

CASE INFORMATION

Statement of Claim filed on or about: December 15, 2020.

Jacques Andre Soileau signed the Submission Agreement: December 14, 2020.

Jennifer Beth Plauche Soileau signed the Submission Agreement: December 14, 2020.

Nexgen Investments, LLC signed the Submission Agreement: December 14, 2020.

Statement of Answer filed by Respondent on or about: March 8, 2021.

UBS Financial Services Inc. signed the Submission Agreement: March 8, 2021.

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 Sections 10(b) of the Securities Exchange Act, and Rule 10b-5 of the Securities and Exchange Commission; and

violation of the Texas Securities Act. The causes of action relate to Claimants' investments 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: compensatory damages between \$500,000.00 and \$1,000,000.00; punitive damages; interest; costs; attorneys' fees; and such other and further relief this Panel deemed just and proper.

In the Statement of Answer, Respondent requested: dismissal of Claimants' Statement of Claim in its entirety and with prejudice; and such other and further relief as the Panel deemed just and proper.

At the close of the hearing, Claimants requested \$58,644.00 in costs.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about May 19, 2022, Respondent filed a Motion that the evidentiary hearings for May 24, 2022, through May 27, 2022, be conducted by videoconference. On or about May 20, 2022, Claimant filed a response opposing the Motion. On May 20, 2022, the Panel heard oral arguments on the Motion. On or about May 20, 2022, the Panel issued an Order that the evidentiary hearings for May 24, 2022, through May 27, 2022, would proceed via videoconference.

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 \$687,403.00 in compensatory damages (includes pre-judgment interest).
2. Respondent is liable for and shall pay to Claimants the sum of \$58,644.00 in costs.
3. Respondent is liable for and shall pay to Claimants the sum of \$229,134.33 in attorneys' fees pursuant to the FINRA Uniform Submission Agreements filed by the parties, along with the following case law: Cassedy v. Merrill Lynch, Pierce, Fenner & Smith, Inc., 751 So. 2d 143 (Fla. 1st DCA 2000); Wing v. J.C. Bradford & Co., 678 F. Supp. 622 at 626 (N.D. Miss. 1987); First Interregional Equity Corp. v. Haughton, 842 F. Supp. 105 at 112-113 (S.D.N.Y.

1994); RAS Sec. Corp. v. Williams, 251 A.D. 2d 98 (N.Y. 1st Dep't 1998); and Marshall & Co. v. Duke, 941 F. Supp. 1207 at 1213-1215 (N.D. Ga. 1995).

4. Respondent shall pay Claimants the sum of \$425.00, representing reimbursement of the non-refundable portion of the initial claim filing fee paid by Claimants to FINRA Dispute Resolution Services.
5. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, 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	=\$ 1,725.00
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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	=\$ 2,475.00
Member Process Fee	=\$ 5,075.00

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 a single Arbitrator @ \$450.00/session	=\$ 900.00
Pre-Hearing Conferences: April 6, 2022	1 session
April 7, 2022	1 session

Three (3) pre-hearing sessions with the Panel @ \$1,300.00/session	=\$ 3,900.00
Pre-Hearing Conferences: April 8, 2021	1 session
April 1, 2022	1 session
May 20, 2022	1 session

Eighteen (18) hearing sessions @ \$1,300.00/session	=\$ 23,400.00
Hearings: May 9, 2022	2 sessions
May 10, 2022	2 sessions
May 11, 2022	2 sessions
May 12, 2022	2 sessions
May 24, 2022	2 sessions

May 25, 2022	3 sessions
May 26, 2022	2 sessions
May 27, 2022	3 sessions

Total Hearing Session Fees	= \$ 28,200.00
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The Panel has assessed \$2,175.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$26,025.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Barbara L. Edin	-	Public Arbitrator, Presiding Chairperson
Donald Cole Massey	-	Public Arbitrator
Linda Genevieve Bizzarro	-	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

Barbara L. Edin

Barbara L. Edin
Public Arbitrator, Presiding Chairperson

06/22/2022

Signature Date

Donald Cole Massey

Donald Cole Massey
Public Arbitrator

06/22/2022

Signature Date

Linda Genevieve Bizzarro

Linda Genevieve Bizzarro
Public Arbitrator

06/22/2022

Signature Date

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June 22, 2022

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