

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimants

Esther Mudafort And Roberto Fuentes
Adriana Fuentes
Camelia Fuentes

Case Number: 17-02676

vs.

Respondents

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

Hearing Site: San Juan, Puerto Rico

Nature of the Dispute: Customers vs. Members

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimants Esther Mudafort and Roberto Fuentes, Adriana Fuentes, and Camelia Fuentes: W. Scott Greco, Esq., Greco & Greco, P.C., McLean, VA, Luis E. Miñana, Esq., Espada Miñana & Pedrosa Law Offices PSC, San Juan, Puerto Rico, and Eric Quetglas Jordan, Esq., Quetglas Law, San Juan, Puerto Rico.

For Respondent UBS Financial Services, Inc. ("UBS") and UBS Financial Services Incorporated of Puerto Rico ("UBSPR"): Edwin Zipf, Esq., Bradley Rounsaville, Esq., and Louis F. Mendez, Esq., Bressler, Amery & Ross, P.C., Birmingham, Alabama, and Roberto C. Quiñones-Rivera, Esq., McConnell Valdes LLC, San Juan, Puerto Rico.

CASE INFORMATION

Statement of Claim filed on or about: October 6, 2017.

Esther Mudafort and Roberto Fuentes signed the Submission Agreement: September 18, 2017.

Camelia Fuentes signed the Submission Agreement: September 18, 2017.

Adriana Fuentes signed the Submission Agreement: September 18, 2017.

Statement of Answer filed by Respondents on or about: March 26, 2018.

UBS signed the Submission Agreement: November 16, 2017.

UBSPR signed the Submission Agreement: April 5, 2018.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; violations of federal securities acts; fault, fraud, deceit, recklessness and negligence; breach of fiduciary duty; breach of contract; vicarious liability; omissions; misrepresentations; and manipulation. The causes of action relate to the purchase of Puerto Rico bonds and shares of Puerto Rico closed end funds, and the use of unsolicited lines of credit to purchase more of these securities in Claimants' accounts.

Unless specifically admitted in the Statement of 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: no less than \$6,000,000.00 for their economic losses; the monies paid by Claimants for the purchase of the voided Puerto Rico securities, transaction fees, commissions and other charges related to the purchase and sale of the Puerto Rico securities, in an unspecified amount to be determined at the hearing; disgorgement of all commissions and fees earned by Respondents; attorneys' fees in an unspecified amount to be determined by the Panel, plus the reimbursement of arbitration and litigation costs and expenses to be determined at the hearing; legal interest accrued over the fore stated monetary amounts since the filing of the Claim in an unspecified amount to be determined at the hearing; any such other and further relief, as the Panel deemed just and appropriate.

In the Statement of Answer, Respondents requested that Claimants take nothing by their claims, that Claimants' claims be dismissed with prejudice and that FINRA forum fees be assessed against Claimants.

At the close of the hearing, Claimants requested total damages in the amount of \$12,057,948.00.

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 28, 2019, Respondents filed a Motion in Limine to Exclude Evidence Relating to Claims of Alleged Fund Mismanagement, in which they asserted, among other things, that Rule 12205 of the Code of Arbitration Procedure (the "Code") explicitly prohibits the arbitration of shareholder derivative actions under the Code, and that all evidence relating to any claims of decrease in share value due to fund mismanagement by Claimants should be excluded by the Panel. In their Response in Opposition to Respondents' Motion in Limine Relating Claims of Alleged Fund Mismanagement dated May 31, 2019, Claimants argued, among other things, that Respondents were attempting to hide evidence of their agents' fraudulent mismanagement and that Claimants' claims were not derivative, but instead based on duties owed by Respondents directly to the Claimants based on the fund managers' registration with FINRA. In their Reply Brief in Support of Motion in Limine to Exclude Evidence Relating

to Claims of Alleged Mismanagement dated June 5, 2019, Respondents asserted, among other things, that their Motion in Limine was appropriate for the Panel's consideration, that Claimants' contract and tort claims may not be based on alleged fund mismanagement, and that the Motion seeks to exclude specific evidence of alleged fund mismanagement. The Panel heard oral arguments related to Respondents' Motion in Limine at the beginning of the evidentiary hearing held on June 17, 2019. Respondents' Motion in Limine was denied by the Panel.

The Chairperson has provided an explanation of his decision in this award. The explanation is for the information of the parties only and is not precedential in nature.

The parties present at the hearing 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, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable for and shall pay to Claimants the sum of \$4,813,161.00 in compensatory damages.
2. Respondents are jointly and severally liable for and shall pay to Claimants the sum of \$67,969.40 in costs.
3. Respondents are jointly and severally liable for and shall pay to Claimants the amount of \$750.00 representing reimbursement of the non-refundable portion of the filing fee previously paid by Claimants to FINRA Office of Dispute Resolution.
4. Any and all claims for relief not specifically addressed herein, including Claimants' request for attorneys' fees, are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

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| 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(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 each assessed the following:

For UBS:

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| Member Surcharge | = \$ 3,600.00 |
| Member Process Fee | = \$ 6,800.00 |

For UBSPR:

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|--------------------|---------------|
| Member Surcharge | = \$ 3,600.00 |
| Member Process Fee | = \$ 6,800.00 |

Discovery-Related Motion Fee

Fees apply for each decision rendered on a discovery-related motion.

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| Two (2) decisions on discovery-related motions on the papers with one (1) arbitrator @ \$200.00/decision | = \$ 400.00 |
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Respondents submitted two (2) discovery-related motions

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| Total Discovery-Related Motion Fees | = \$ 400.00 |
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The Panel has assessed \$200.00 of the discovery-related motion fees jointly and severally to Claimants.

The Panel has assessed \$200.00 of the discovery-related motion fees jointly and severally to Respondents.

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:

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| One (1) pre-hearing session with the Panel @ \$1,500.00/session | = \$ 1,500.00 |
| Pre-hearing conference: March 16, 2018 | 1 session |

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| Twenty-one (21) hearing sessions @ \$1,500.00/session | = \$31,500.00 |
| Hearing Dates: | |
| June 17, 2019 | 2 sessions |
| June 18, 2019 | 2 sessions |
| June 19, 2019 | 2 sessions |
| June 20, 2019 | 2 sessions |
| June 21, 2019 | 2 sessions |
| June 24, 2019 | 3 sessions |
| June 25, 2019 | 3 sessions |
| June 26, 2019 | 2 sessions |

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| June 27, 2019 | 2 sessions |
| June 28, 2019 | 1 session |

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| Total Hearing Session Fees | = \$33,000.00 |
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The Panel has assessed \$750.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$32,250.00 of the hearing session fees jointly and severally to Respondents.

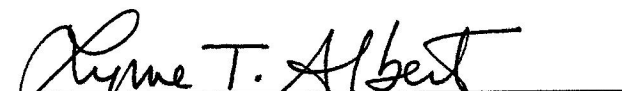
All balances are payable to FINRA Office of Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

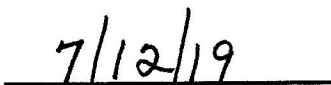
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|----------------------|---|--|
| Douglas Earl McLaren | - | Public Arbitrator, Presiding Chairperson |
| Lynne T. Albert | - | Public Arbitrator |
| Robert G. Falbisaner | - | Public Arbitrator |

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



Lynne T. Albert
Public Arbitrator



Signature Date

Robert G. Falbisaner
Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature
Dissenting as to Quantum of Award.

Douglas Earl McLaren
Public Arbitrator, Presiding Chairperson

Signature Date

JULY 12, 2019

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

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Public Arbitrator

Signature Date



Robert G. Falbisaner
Public Arbitrator

07/11/2019
Signature Date

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Public Arbitrator

Signature Date

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Dissenting as to Quantum of Award.

/s/ Douglas E. McLaren

Douglas Earl McLaren
Public Arbitrator, Presiding Chairperson

07/12/2019

Signature Date

JULY 12, 2019

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