

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

Ana Elisa Ciordia-Robles as Beneficiary of the
AECR Living and Grantor Trust

Case Number: 15-01774

vs.

Respondents

UBS Financial Services Inc.
UBS Financial Services Inc. of Puerto Rico
UBS Trust Co. of Puerto Rico

Hearing Site: San Juan, Puerto Rico

Nature of the Dispute: Customer vs. Members and Non-Member

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimant Ana Elisa Ciordia-Robles as Beneficiary of the AECR Living and Grantor Trust (“Ciordia-Robles”): Jeffrey Erez, Esq. and Jeffrey Sonn, Esq., Sonn & Erez, Miami, Florida and Eliezer A. Aldarondo-Lopez, Esq., Aldarondo & Lopez Bras, Guaynabo, Puerto Rico.

For Respondents UBS Financial Services Inc. (“UBS”), UBS Financial Services Inc. of Puerto Rico (“UBSPR”) and UBS Trust Co. of Puerto Rico (“UBS Trust”): Peter Neiman, Esq. and Ross Firsenbaum, Esq., Wilmer, Cutler, Pickering Hale, New York, New York and Roberto Quinones, Esq., McConnell Valdes, LLC, San Juan, Puerto Rico.

CASE INFORMATION

Statement of Claim filed on or about: July 17, 2015.

The AECR Living and Grantor Trust signed the Submission Agreement: July 17, 2015.

Statement of Answer filed by Respondents UBS, UBSPR and UBS Trust on or about: November 10, 2015.

UBS signed the Submission Agreement: July 29, 2015.

UBSPR signed the Submission Agreement: August 17, 2015.

UBS Trust did not sign the Submission Agreement.

Motion to Dismiss the Claims against UBS Trust Company of Puerto Rico filed by Respondent UBS Trust on or about: October 14, 2016.

Opposition to Respondent’s Motion to Dismiss and Motion for Sanctions filed by Claimant on or about: October 24, 2016.

Reply in Support of Motion to Dismiss Claims Against UBS Trust Company of Puerto Rico filed by Respondent UBS Trust on or about: October 24, 2016.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty, negligence, negligent supervision, fraud, breach of contract, breach of contract – third-party beneficiary, violation of the Puerto Rico Uniform Securities Act, violation of Sections 10(b) of the Securities Exchange Act and Rule 10b-5 of the Securities and Exchange Commission. The causes of action relate to Claimant's alleged unsuitable and high-risk investments in UBS Puerto Rico closed-end bond funds.

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, Claimant requested: compensatory damages in an amount between \$500,000.00 and \$1,000,000.00; rescission; punitive damages; interest; costs; attorneys' fees; and such other and further relief as the Panel deemed just and proper.

In the Statement of Answer, Respondents UBS, UBSPR and UBS Trust requested: that Claimant take nothing by her claims and that her claims be dismissed in their entirety, with prejudice; that all FINRA fees and costs be assessed against Claimant; that the Panel make specific findings to allow the expungement of any record of this arbitration from the Central Registration Depository ("CRD") records of Carlos A. Rodriguez and any other relevant UBS employee; and for such other and further relief as the Panel deemed just and appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent UBS Trust is not a member or associated person of FINRA. Respondent UBS Trust did not file with FINRA Office of Dispute Resolution a properly-executed Submission Agreement but, having answered the claim, voluntarily submitted to arbitration and is bound by the determination of the Panel on all issues submitted.

On or about October 14, 2016, Respondent UBS Trust filed a Motion to Dismiss the Claims against UBS Trust Company of Puerto Rico asserting, among other things, that Claimant and Respondent UBS Trust had previously signed an agreement which released Respondent UBS Trust from any and all claims related to the investment of the assets held by the trust. On or about October 24, 2016, Claimant filed an Opposition to Respondent UBS Trust's Motion to Dismiss and Motion for Sanctions asserting, among other things, that the Motion was explicitly prohibited by FINRA Rules, which required Respondent UBS Trust to file its Motion to Dismiss more than two months before the date it was filed, and requested monetary sanctions in the amount of \$20,000.00. On or about October 24, 2016, Respondent UBS Trust filed a Reply in Support of the Motion to Dismiss asserting, among other things, that Claimant was not prejudiced by the

timing of the filing. At the evidentiary hearing, the Panel heard oral arguments on the Motion, and subsequently entered an Order denying Respondent UBS Trust's Motion to Dismiss on the basis that the Motion was not timely filed and denying Claimant's request for sanctions.

During the course of the evidentiary hearing, Respondents filed a Memorandum Regarding Choice of Law seeking to apply New York substantive law to a portion of the case. Claimant opposed this Memorandum. The Panel denied Respondents' request.

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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents UBS and UBSPR are jointly and severally liable for and shall pay to Claimant Ciordia-Robles the sum of \$751,114.00 in compensatory damages.
2. Respondents UBS and UBSPR are jointly and severally liable for and shall pay to Claimant Ciordia-Robles interest on the above-stated sum at the rate of 4.25% per annum from the date the Award issues until the Award is satisfied.
3. Respondents UBS and UBSPR are jointly and severally liable for and shall pay to Claimant Ciordia-Robles the sum of \$60,982.59 in costs.
4. Respondents UBS and UBSPR are jointly and severally liable for and shall pay to Claimant Ciordia-Robles the sum of \$145,700.00 in attorneys' fees pursuant to 10 L.P.R.A. §890 (Puerto Rico Uniform Securities Act).
5. Respondents' request for expungement on behalf of Carlos A. Rodriguez (CRD# 4888179) is denied.
6. Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, 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:

Initial Claim Filing Fee

= \$ 1,725.00

**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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as parties, UBS and UBSPR are assessed the following:

UBS:
Member Surcharge = \$ 2,475.00
Member Process Fee = \$ 5,075.00

UBS PR:
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), 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: July 14, 2016 1 session

Two (2) pre-hearing sessions with the Panel @ \$1,300.00/session = \$ 2,600.00
Pre-hearing conferences: January 4, 2016 1 session
October 13, 2016 1 session

Eighteen (18) hearing sessions @ \$1,300.00/session = \$23,400.00
Hearing Date(s): October 17, 2016 2 sessions
October 18, 2016 3 sessions
October 19, 2016 2 sessions
October 20, 2016 3 sessions
October 21, 2016 1 session
October 25, 2016 2 sessions
October 26, 2016 3 sessions
October 27, 2016 2 sessions

Total Hearing Session Fees = \$ 26,450.00

The Panel has assessed the \$1,525.00 of the hearing session fees to Claimant.

The Panel has assessed the \$24,925.00 of the hearing session fees jointly and severally to Respondents UBS and UBSPR.

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

ARBITRATION PANEL

Kenneth R. Starr	-	Public Arbitrator, Presiding Chairperson
George Allen Whitehouse	-	Public Arbitrator
Sam Gowin	-	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

Ken Starr

Kenneth R. Starr
Public Arbitrator, Presiding Chairperson

11/04/2016

Signature Date

George Allen Whitehouse
Public Arbitrator

Signature Date

Sam Gowin
Public Arbitrator

Signature Date

November 4, 2016

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

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Kenneth R. Starr	-	Public Arbitrator, Presiding Chairperson
George Allen Whitehouse	-	Public Arbitrator
Sam Gowin	-	Public Arbitrator

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Kenneth R. Starr
Public Arbitrator, Presiding Chairperson



Signature Date

11/4/16

George Allen Whitehouse
Public Arbitrator

Signature Date

Sam Gowin
Public Arbitrator

Signature Date

November 4, 2016

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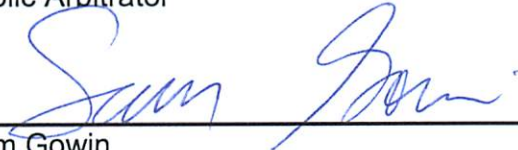
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Public Arbitrator, Presiding Chairperson

Signature Date

George Allen Whitehouse
Public Arbitrator

Signature Date



Sam Gowin
Public Arbitrator



Signature Date

November 4, 2016

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