

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

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In the Matter of the Arbitration Between:

Claimants

Alan Wayne Friesen Revocable Trust  
Jacob Gordon Jackson Revocable Trust

Case Number: 19-03790

vs.

Respondent

UBS Financial Services Inc.

Hearing Site: Denver, Colorado

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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.

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimants Alan Wayne Friesen Revocable Trust (“Friesen”) and Jacob Gordon Jackson Revocable Trust (“Jackson”): Alan C. Friedberg, Esq., Berg Hill Greenleaf Ruscitti LLP, Boulder, Colorado.

Hereinafter, Friesen and Jackson will collectively be referred to as Claimants.

For Respondent UBS Financial Services Inc. (“Respondent”): Christian T. Kemnitz, Esq. and Patrick Smith, Esq., Katten Muchin Rosenman LLP, Chicago, Illinois.

**CASE INFORMATION**

Statement of Claim filed on or about: December 20, 2019.  
Jackson signed the Submission Agreement: December 17, 2019.  
Friesen signed the Submission Agreement: December 19, 2019.

Statement of Answer filed by Respondent on or about: March 25, 2020.  
Respondent signed the Submission Agreement: January 6, 2020.

### **CASE SUMMARY**

In the Statement of Claim, Claimants asserted the following causes of action: breach of fiduciary duty, violation of Nebraska Securities Act, and professional negligence. The causes of action relate to the UBS Yield Enhancement Strategy program.

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:

1. Compensatory damages in an amount to be determined by the Arbitrators;
2. Exemplary damages in an amount to be determined by the Arbitrators;
3. Pre-award and post-award interest;
4. Attorneys' fees;
5. Costs; and
6. Such other and further relief as the Arbitrators deem proper and appropriate.

In the Statement of Answer, Respondent requested:

1. Dismissal of Claimants' claims in their entirety with prejudice;
2. Expungement of Occurrence Numbers 2059518 and 2059519 from the Central Registration Depository ("CRD") records of Jason Matthew Dworak (CRD Number 2434370); and
3. Such other and further relief as the Arbitrators deem 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.

### **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 Freisen the sum of \$727,458.00 in compensatory damages.
2. Respondent is liable for and shall pay to Jackson the sum of \$316,784.00 in compensatory damages.
3. Respondent is liable for and shall pay to Claimants interest on the above-stated sums at the rate of 4% per annum from December 20, 2019 through the date the award is paid in full.

4. Respondent's request for expungement of the above-captioned arbitration (Occurrence Numbers 2059518 and 2059519) from Jason Matthew Dworak's CRD records is denied.
5. Respondent is liable for and shall pay to Claimants \$600.00 to reimburse Claimants for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.
6. Any and all claims for relief not specifically addressed herein, including any requests for 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 =\$ 2,000.00

*\*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 firm that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge =\$ 3,025.00  
Member Process Fee =\$ 6,175.00

#### **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:

Three (3) pre-hearing sessions with the Panel @ \$1,400.00/session =\$ 4,200.00  
Pre-Hearing Conferences: May 4, 2020 1 session  
October 13, 2020 1 session  
January 12, 2021 1 session

Eleven (11) hearing sessions @ \$1,400.00/session =\$ 15,400.00  
Hearings: February 22, 2021 2 sessions  
February 23, 2021 2 sessions  
February 24, 2021 2 sessions  
February 25, 2021 2 sessions  
February 26, 2021 2 sessions  
March 1, 2021 1 session

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Total Hearing Session Fees =\$ 19,600.00

The Panel has assessed \$1,400.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$16,800.00 of the hearing session fees to Respondent.

The Panel has waived \$1,400.00 of the hearing session fees.

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

**ARBITRATION PANEL**

Leonard M. Goldstein	-	Public Arbitrator, Presiding Chairperson
Charles G. Michaels	-	Public Arbitrator
Henry R Cox	-	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**

***Leonard M. Goldstein***

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Leonard M. Goldstein  
Public Arbitrator, Presiding Chairperson

**03/05/2021**

\_\_\_\_\_  
Signature Date

***Charles G. Michaels***

\_\_\_\_\_  
Charles G. Michaels  
Public Arbitrator

**03/05/2021**

\_\_\_\_\_  
Signature Date

***Henry R Cox***

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Henry R Cox  
Public Arbitrator

**03/05/2021**

\_\_\_\_\_  
Signature Date

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March 8, 2021

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