

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimants

Mercedes Imbert De Jesus
Rafael Vizcarrondo

Case Number: 14-02464

vs.

Respondents

UBS Financial Services, Inc.
UBS Financial Services, Inc. of Puerto Rico
Ramon Manuel Almonte

Hearing Site: San Juan, Puerto Rico

Nature of the Dispute: Customers vs. Members and Associated Person

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimants Mercedes Imbert De Jesus and Rafael Vizcarrondo: Timothy J. Dennin, Esq., Timothy J. Dennin, P.C., Northport, New York, Rafael Lugo, Esq. and Joseph Marrero-Mathieu, Esq., Lugo Sotomayor Law & Associates, P.S.C., San Juan, Puerto Rico and Jose A. Andreu Fuentes, Esq., Andreu & Sagardia, San Juan, Puerto Rico.

For Respondents UBS Financial Services, Inc. ("UBS"), UBS Financial Services, Inc. of Puerto Rico ("UBSPR") and Ramon Manuel Almonte ("Almonte"): Matthew E. Wolper, Esq., Richard Szuch, Esq. and Wesley Holston, Esq., Bressler, Amery & Ross, P.C., Fort Lauderdale, Florida and Guillermo J. Bobonis, Esq., Bobonis, Bobonis & Rodríguez Poventud, San Juan, Puerto Rico.

CASE INFORMATION

Statement of Claim filed on or about: July 31, 2014.

Mercedes Imbert De Jesus signed the Submission Agreement: July 31, 2014.

Rafael Vizcarrondo signed the Submission Agreement: July 31, 2014.

Statement of Answer filed by Respondents on or about: November 17, 2014.

UBS Financial Services, Inc. signed the Submission Agreement: August 8, 2014.

UBS Financial Services, Inc. of Puerto Rico signed the Submission Agreement: September 12, 2014.

Ramon Manuel Almonte signed the Submission Agreement: December 8, 2014.

Claimants' Motion for Leave to Amend Statement of Claim ("Motion to Amend") filed on or about: December 24, 2014.

Amended Statement of Claim filed on or about: January 14, 2015.

CASE SUMMARY

Claimants asserted the following causes of action: breach of duties owed to Claimants; violations of the Uniform Securities Act of Puerto Rico and the Puerto Rico Bill of Rights for the Elderly; breach of fiduciary duty; breach of contract; negligence; negligent supervision; unsuitable investments and strategy; failure to supervise; failure to comply with the requirements set forth in the "Laws of Banks of Puerto Rico," 7 L.P.R.A. 1, et seq.; and secondary or vicarious liability. The causes of action relate to, among other things, Claimants' investments in Puerto Rico closed-end mutual funds concentrated in Puerto Rico bonds.

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, as amended, Claimants requested: compensatory damages of not less than \$19,000,000.00; commissions and fees paid by Claimants of not less than \$1,200,000.00; rescission of the transactions at issue and a ruling that Claimants are entitled to recover the full restitution consisting of the purchase price plus interest less distributions; disgorgement of all transaction costs in Claimants' accounts and a ruling that Claimants are entitled to recover the fees, interest, commissions and any other costs or expenditures incurred in the transactions executed in Claimants' accounts; punitive damages in an amount to be determined by the Panel; pre-judgment, post-judgment and continuing interest; attorneys' fees; costs and expenses; and any other relief to which they may be entitled.

In the Statement of Answer, Respondents requested denial of the Statement of Claim in its entirety with prejudice, that all FINRA fees and costs be assessed against Claimants, expungement of this arbitration from Respondent Almonte's (CRD # 1014799) Central Registration Depository records and such other and further relief the Panel deemed just and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

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

In their Motion to Amend, Claimants requested leave to amend their Statement of Claim to, among other things, increase the amount of damages claimed. Respondents did not file a response to the Motion to Amend. On or about January 14, 2015, the Panel entered an Order which granted Claimants' Motion to Amend.

On or about February 24, 2016, Claimants dismissed their claims against Respondent Almonte without prejudice, which Respondent Almonte did not oppose. Accordingly, the Panel made no determinations with respect to any of the claims asserted against Respondent Almonte.

Claimant Mercedes Imbert De Jesus did not personally appear at the evidentiary hearing. Counsel appeared on her behalf.

Following his dismissal from this case, Respondent Almonte did not pursue his request for expungement. Accordingly, the Panel determined that his request for expungement was withdrawn.

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 recorded in-person 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 UBS and UBSPR are jointly and severally liable and shall pay to Claimants the sum of \$12,716,722.00 in compensatory damages.
2. Respondents UBS and UBSPR are jointly and severally liable and shall pay to Claimants interest in the sum of \$2,517,911.00, accrued at the rate of 9% per annum from December 31, 2013, to March 13, 2016.
3. Respondents UBS and UBSPR are jointly and severally liable and shall pay to Claimants the sum of \$163,000.00 in expert witness fees.
4. Respondents UBS and UBSPR are jointly and severally liable and shall pay to Claimants the sum of \$600.00 representing reimbursement of the non-refundable portion of the claim filing fee previously paid by Claimants to FINRA Office of Dispute Resolution.
5. Respondents UBS and UBSPR are jointly and severally liable and shall pay to Claimants the sum of \$3,179,180.50 in attorneys' fees representing 25% of the compensatory damages amount awarded in paragraph 1. The attorneys' fees are awarded pursuant to the Puerto Rico Uniform Securities Act, 10 L.P.R.A. §890(a)(2) and based on the fact that Claimants and Respondents UBS and UBSPR requested attorneys' fees and such further relief the Panel deemed just and proper in their respective pre-hearing briefs.
6. Any and all relief not specifically addressed herein, including Claimants' request for punitive damages, is denied.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee = \$ 1,800.00

**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(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 assessed the following:

Respondent UBS:

Member Surcharge	= \$ 3,750.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 5,500.00

Respondent UBSPR:

Member Surcharge	= \$ 3,750.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 5,500.00

Discovery-Related Motion Fee

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

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

Respondents submitted two (2) discovery-related motions

Total Discovery-Related Motion Fee = \$ 400.00

The Panel has assessed the total discovery-related motion fees of \$400.00 jointly and severally to Respondents UBS and UBSPR.

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:

Two (2) pre-hearing sessions with a single arbitrator @ \$450.00/session = \$ 900.00
Pre-hearing conferences: February 5, 2016 1 session
February 12, 2016 1 session

Three (3) pre-hearing sessions with the Panel @ \$1,200.00/session = \$ 3,600.00
Pre-hearing conferences: January 2, 2015 1 session
March 30, 2016 1 session
June 24, 2016 1 session

Fifty (50) hearing sessions @ \$1,200.00/session		= \$60,000.00
Hearing Dates:	March 14, 2016	2 sessions
	March 15, 2016	2 sessions
	March 16, 2016	2 sessions
	March 17, 2016	2 sessions
	March 18, 2016	2 sessions
	April 25, 2016	2 sessions
	April 26, 2016	2 sessions
	April 27, 2016	2 sessions
	April 28, 2016	2 sessions
	April 29, 2016	2 sessions
	April 30, 2016	2 sessions
	July 27, 2016	1 session
	July 28, 2016	2 sessions
	July 29, 2016	2 sessions
	July 30, 2016	2 sessions
	September 28, 2016	2 sessions
	September 29, 2016	2 sessions
	September 30, 2016	2 sessions
	October 24, 2016	2 sessions
	October 25, 2016	2 sessions
	October 26, 2016	3 sessions
	October 27, 2016	2 sessions
	October 28, 2016	3 sessions
	October 29, 2016	3 sessions

Total Hearing Session Fees	= \$64,500.00
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The Panel has assessed the total hearing session fees of \$64,500.00 jointly and severally to Respondents UBS and UBSPR.

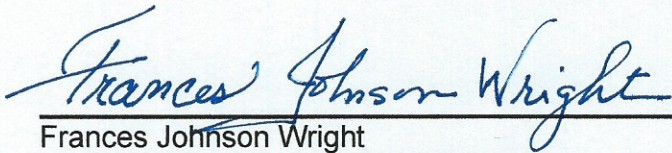
All balances are payable to FINRA Office of Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

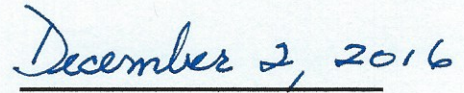
Frances Johnson Wright	-	Public Arbitrator, Presiding Chairperson
John D. Mattingly	-	Public Arbitrator
Susan Meek	-	Public Arbitrator

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



Frances Johnson Wright
Public Arbitrator, Presiding Chairperson



Signature Date

John D. Mattingly
Public Arbitrator

Signature Date

Susan Meek
Public Arbitrator

Signature Date

December 5, 2016

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

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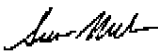
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