

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimants

Alexandra Amador
Carlos Caban
Warynex Carlo
Pedro Martinez Parsi
Jorge S. Medina
Angel Morey-Noble
Jorge Pesquera
Alberto Rosario
Jose Zorrilla

Case Number: 15-01896

vs.

Respondents

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

Hearing Site: San Juan, Puerto Rico

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

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimants Alexandra Amador ("Amador"), Carlos Caban ("Caban"), Warynex Carlo ("Carlo"), Pedro Martinez Parsi ("Martinez"), Jorge S. Medina ("Medina"), Angel Morey-Noble ("Morey-Noble"), Jorge Pesquera ("Pesquera"), Alberto Rosario ("Rosario") and Jose Zorrilla ("Zorrilla"): Jenice L. Malecki, Esq. and Adam M. Nicolazzo, Esq., Malecki Law, New York, New York, James Keneally, Esq., Harris St. Laurent & Chaudhry, LLP, New York, New York, and Benjamín Quiñones Lebrón, Esq., Humacao, Puerto Rico.

For Respondents UBS Financial Services, Inc. ("UBS") and UBS Financial Services Incorporated of Puerto Rico ("UBSPR"): Peter Neiman, Esq., Wilmer Cutler Pickering Hale and Dorr LLP, New York, New York and Carlos Bobonis-González, Esq., Bobonis, Bobonis & Rodríguez Poventud, San Juan, Puerto Rico.

CASE INFORMATION

Statement of Claim filed on or about: July 23, 2015.

Jorge S. Medina signed the Submission Agreement: June 22, 2015.

Carlos Caban signed the Submission Agreement: June 26, 2015.

Pedro Martinez Parsi signed the Submission Agreement: June 26, 2015.

Alexandra Amador signed the Submission Agreement: June 29, 2015.

Warynex Carlo signed the Submission Agreement: June 30, 2015.

Alberto Rosario signed the Submission Agreement: June 30, 2015.
Jose Zorrilla signed the Submission Agreement: July 23, 2015.
Angel Morey-Noble signed the Submission Agreement: February 27, 2017.
Jorge Pesquera signed the Submission Agreement: February 27, 2017.

Statement of Answer and Counterstatement of Claim filed by Respondents on or about:
October 15, 2015.
UBS Financial Services, Inc. signed the Submission Agreement: October 15, 2015.
UBS Financial Services Incorporated of Puerto Rico signed the Submission Agreement:
October 19, 2015.

Answer to Counterclaims filed by Claimants on or about: November 5, 2015.

Motion to Sever filed by Respondents on or about: December 10, 2015.
Opposition to Motion to Sever filed by Claimants on or about: December 21, 2015.
Reply Brief in Support of Motion to Sever filed by Respondents on or about: January 8,
2016.
Sur-Reply in Further Opposition to Motion to Sever filed by Claimants on or about:
January 15, 2016.

Motion to Amend/Supplement the Statement of Claim filed by Claimants on or about:
March 15, 2016.
Opposition to Motion to Amend/Supplement the Statement of Claim, Motion for
Reconsideration and, in the Alternative, Motion to Sever filed by Respondents on or
about: March 25, 2016.
Reply in Further Support of Motion to Amend/Supplement the Statement of Claim and
Opposition to Cross-Motion for Reconsideration filed by Claimants on or about: April 4,
2016.
Supplement to Statement of Claim deemed filed by Claimants on or about: May 11,
2016.

Unopposed Motion to Amend the Counterstatement of Claim filed by Respondents on or
about: December 7, 2016.
Amended Counterstatement of Claim deemed filed by Respondents on or about:
December 30, 2016.

Motion to Amend the Statement of Answer filed by Respondents on or about: January 9,
2017.
Opposition to Motion to Amend Statement of Answer filed by Claimants on or about:
January 17, 2017.

CASE SUMMARY

Claimants, all financial advisors and some in their capacities as customers, asserted the following causes of action in the Statement of Claim in this matter, as supplemented: fraud, including common law fraud, equitable fraud, fraudulent misrepresentation and fraudulent inducement; agency (breach of duty to inform agent); negligence, including common law negligence and negligent misrepresentation; tortious interference with business relationships and economic advantage; contract claims, including breach of

express and implied contract (implied covenant of good faith and fair dealing); unjust termination and failure to pay severance pursuant to Puerto Rico Law 80; and defamation on the Form U5. The causes of action relate to, among other things, Respondents' alleged material misstatements and omissions to Claimants about Puerto Rican Closed End Funds ("CEFs" or "PR Funds").

Unless specifically admitted in the Statement of Answer, Respondents denied the allegations made in the Statement of Claim, as supplemented, and asserted various affirmative defenses.

In the Counterstatement of Claim, as amended, Respondents asserted the cause of action of breach of contract. The cause of action relates to Claimants/Counter-Respondents' Amador, Zorrilla, Rosario and Martinez's failure to repay sums allegedly due Respondents upon termination of their employment pursuant to the terms of fully executed promissory notes, GrowthPlus Agreements and/or Transition Agreements.

Unless specifically admitted in their Answer to Counterclaims, Claimants/Counter-Respondents denied the allegations made in the Statement of Answer and Counterstatement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, as supplemented, Claimants requested compensatory damages of not less than \$30,000,000.00; punitive damages; interest compounded annually at the rate of 9%; attorneys' fees; arbitration fees, costs and expenses; expungement of all customer complaints related to the PR Funds; and such other further relief as deemed just and proper by the Panel.

In the Statement of Answer, Respondents requested that Claimants take nothing by their claims and that this matter be dismissed with prejudice in its entirety; an award of all costs of the FINRA proceedings incurred herein, including arbitrators' fees, attorneys' fees and expenses; and such other further relief as deemed appropriate by the Panel.

In the Counterstatement of Claim, as amended, Respondents requested: compensatory damages from Claimant/Counter-Respondent Amador in the amount of \$39,090.49, from Claimant/Counter-Respondent Zorrilla in the amount of \$6,618.20, from Claimant/Counter-Respondent Rosario in the amount of \$10,862.52 and from Claimant/Counter-Respondent Martinez in the amount of \$49,588.52; costs and expenses; and attorneys' fees.

In the Answer to Counterclaims, Claimants/Counter-Respondents requested: dismissal of Respondents' counterclaims, with prejudice.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondents filed a Motion to Sever and Reply Brief in Support thereof in which they asserted, among other things, that the seven disparate claims asserted in the Statement of Claim do not meet FINRA's joinder requirements, and joinder will needlessly complicate the proceedings and could result in prejudice to Respondents. In their Opposition and Reply in Further Support, Claimants stated, among other things, that common questions of law and fact exist and Claimants' group claims arise out of the same transactions, occurrences, or series of transactions or occurrences. On or about February 22, 2016, the Panel issued an Order that denied Respondents' Motion to Sever.

Claimants' filed a Motion to Amend/Supplement the Statement of Claim to add two additional Claimants in this matter; namely, Angel Morey-Noble and Jorge Pesquera. In their Opposition, Respondents stated that the proposed supplemental claims do not meet the requirements for joinder under the FINRA rules and adding two more claimants would further complicate the proceedings and prejudice Respondents. Respondents further requested that the Panel reconsider its decision on their previously denied Motion to Sever. In their Reply, Claimants stated, among other things, that the causes of action of all Claimants are identical. On or about May 11, 2016, the Panel issued an Order that granted Claimants' Motion to Amend/Supplement the Statement of Claim and reaffirmed its denial of Respondents' Motion to Sever.

Respondents filed an Unopposed Motion to Amend the Counterstatement of Claim for the purpose of adding a counterclaim against Claimant/Counter-Respondent Martinez and modifying the damage amounts requested from Claimants/CounterRespondents Amador, Zorrilla, and Rosario. On or about December 30, 2016, the Panel issued an Order granting Respondents' Motion.

Respondents filed a Motion to Amend the Statement of Answer to remove all references in the Answer to attorneys' fees, stating that Respondents do not intend to seek attorneys' fees in relation to their defense of Claimants' allegations. In their Opposition, Claimants stated that since both parties have made an issue of attorneys' fees for the entire pendency of this case, it is an arbitrable issue for the Panel to consider, and Claimants are statutorily entitled to attorneys' fees as a result of the claims raised in the Statement of Claim. On or about January 19, 2017, the Panel issued an Order that denied Respondents' Motion.

On or about July 21, 2017, the parties filed a notice of settlement and request that the file remain open in order for Claimants Amador, Caban, Carlo, Martinez, Medina, Morey-Noble, Pesquera, Rosario and Zorrilla to pursue their expungement requests. Therefore, with the exception of expungement requests, the Panel made no determinations with respect to any of the ultimate merits of any of the claims or counterclaims contained in any of the pleadings filed by the parties in this matter.

On or about March 14, 2018, Claimants filed a final list of expungement requests for consideration by the Panel. This list was comprised of requests pertaining only to Claimants Morey-Noble, Zorrilla, and Caban, and was unrelated to the settlement of this matter. All other expungement requests were withdrawn. The Panel's findings with respect to the active expungement requests are reflected in the Award section below.

On or about April 16, 2018, Claimants filed with FINRA Office of Dispute Resolution an Affirmation of Service upon the underlying customers associated with each of the expungement requests, which provided notice of the time, date, and location of the expungement hearing in this matter and of their right to participate therein. Claimants provided additional proofs of service during the expungement hearing.

The Panel noted that service was not effectuated on the underlying customer in the matter of Occurrence No. 1250230. The Panel further noted that Claimant Morey-Noble's counsel established mailing of notice of the expungement proceedings for this matter, which resulted in a Federal Express receipt indicating a notation that the notice package sent could not be delivered, so a note was left for the addressee: "Ready for Pick-up."

Other than the underlying customer in Occurrence No. 1810234, none of the customers submitted a written response to the notice of expungement hearing.

The Panel was concerned about circulating documents in the post-2017 Hurricane Maria chaotic environment of Puerto Rico, in which it was uncertain whether the underlying customers had evacuated and left the island. Thus, the Panel ordered Claimants to provide a copy of the Statement of Claim in this settled action to customers who indicated a desire to participate in the expungement hearings.

On or about April 20, 2018, the customer related to Occurrence No. 1810234 indicated his intent to participate in the expungement hearing, and the Panel directed Claimants to provide him with a copy of the Statement of Claim in this matter. In compliance therewith, Claimants provided proof of service of the Statement of Claim in this matter to the underlying customer in Occurrence No. 1810234.

The Panel conducted recorded in-person hearings on April 24-28, 2018, so the parties could present oral argument and evidence on Claimants Morey-Noble, Zorrilla and Caban's requests for expungement.

Respondents objected to portions of Claimants' pre-hearing expungement brief after previously indicating their intent not to participate in the expungement proceedings. In response, Claimants revised their pre-hearing expungement brief to remove the portion that Respondents had an objection to, rendering the objection moot. Thereafter, Respondents advised FINRA that they did not wish to participate in the expungement hearings and did not contest the requests for expungement.

Respondents did not participate in the expungement hearing and did not contest the requests for expungement.

The underlying customer related to Occurrence No. 1810234 appeared at the hearing and initially objected to the expungement request.

The Panel reviewed the BrokerCheck® Reports for Claimants Morey-Noble, Zorrilla and Caban, the underlying customers' respective statements of claim, and the settlement documents. The Panel also considered the amount of settlement payments made by Respondents to customers, if any, and considered other relevant terms and conditions

of each of the settlements. The Panel noted that the settlements were not conditioned on the underlying customers not opposing the requests for expungement. The Panel also noted that Claimants Morey-Noble, Zorrilla, and Caban did not contribute to any of the settlement amounts.

The Panel noted that the Respondents denied the customer complaints related to Occurrence Nos. 1250230 and 1810234 and that those occurrences did not result in settlements. The Panel further noted that Arbitration Case No. 14-03016 concluded by evidentiary hearing.

The Panel noted that Claimants Morey-Noble, Zorrilla, and Caban did not previously file a claim requesting expungement of these same disclosures in the CRD. The Panel further noted that Respondents made a request for expungement on behalf of Claimant Zorrilla in connection with Arbitration Case No. 14-03016 but did not reassert the request at the final evidentiary hearing. Therefore, the Panel in that matter deemed the request withdrawn.

In recommending expungement, the Panel relied upon the testimony specified under each matter number in the Award section below as well as the following documentary or other evidence:

Carlos Caban	
Exhibit Number	Exhibit Description
E-1 Tab 1 Sub Tabs 1-9	Binder with each customer statements of claim and other documents for expungement hearing evidence.
E-32 E-7 14-01645	Proof of Service Folder with notice letters to customers and attorney(s) and tracking numbers.
E-3 14-01645	April 4, 2018 letter from Attorney Klayman stating client does not oppose expungement.
E-31 14-01645	Carlos Caban Current CRD# 4628849.
Carlos Caban 34 14-01645	September 3, 2014 email with PowerPoint presentation for customer.
E-33 E-7 14-02218	April 4, 2018 letter from Attorney Klayman stating client does not oppose expungement.
E-3 14-02218	April 23, 2018 letter from Attorney Edwards stating client does not oppose expungement; believes UBS at fault.
E-1 Tab 2 14-02218	14-02218 Statement of Claim.
E-34 E-7 14-02544	Proof of Service Folder with notice letters to customers and attorney(s) and tracking numbers.

E-3 14-02544	April 20, 2018 letter from Attorney Mougey stating client does not oppose expungement; believes UBS at fault.
E-1 Tab 3 14-02544	14-02544 Statement of Claim.
E-35 E-7 15-02878	Proof of Service Folder with notice letters to customers and attorney(s) and tracking numbers.
E-3 15-02878	April 4, 2018 letter from Attorney Zamansky stating client does not oppose expungement.
E-1 Tab 4 15-02878	15-02878 Statement of Claim.
Respondents' Binder #1; Tab 14 15-02878	April 28, 2010 with customer Financial Goal Analysis (Bates pg. ...8964).
E-36 14-03020	Proof of Service Folder with notice letters to customers and attorney(s) and tracking numbers.
E-3 14-03020	April 20, 2018 letter from Attorney Mougey stating client does not oppose expungement; believes UBS at fault.
E-1 Tab 5	14-03020 Statement of Claim.
E-37 E-7 E-1 (tab 6) 14-03404	Proof of Service Folder with notice letters to customers and attorney(s) and tracking numbers.
E-3 14-03404	April 4, 2018 letter from Attorney Klayman stating client does not oppose expungement.
E-1 Tab 6	14-03404 Statement of Claim.
E-38 E-7 E-1 (Tab 7) 15-01692	Proof of Service Folder with notice letters to customers and attorney(s) and tracking numbers.
E-3 15-01692	April 20, 2018 letter from Attorney Mougey stating client does not oppose expungement; believes UBS at fault.
E-1 Tab 7	15-01692 Statement of Claim.
E-1 (Tab 8) E-39 E-7 15-01829	Proof of Service Folder with notice letters to customers and attorney(s) and tracking numbers.

E-3 15-01829	April 20, 2018 letter from Attorney Mougey stating client does not oppose expungement; believes UBS at fault.
Carlos Caban 21	Customer PowerPoint presentation.
E-1 Tab 8	15-01829 Statement of Claim.
E-40 E-7 16-02652	Proof of Service Folder with notice letters to customer and tracking numbers.
E-1 Tab 9	16-02652 Statement of Claim.

Angel Morey-Noble

Exhibit Number	Exhibit Description
E-1 Tab 2 Sub Tabs 1-5	Binder with each customer statements of claim and other documents for expungement hearing evidence.
E-1 Tab 1	14-01595 Statement of Claim.
E-5 14-01595	Proof of Service Folder with notice letters to customer and tracking numbers.
E-2 14-01595	March 5, 2018 Letter from Florida Office of Financial Regulation Handwritten notes used for Client "A" bullet points.
E-4	Morey-Noble CRD #4054932.
E-2 Morey Exhibit Tab	March 7, 2018 Morey-Noble Letter to Governor of Puerto Rico.
Claimant's Ex 74-42	Client calculator based on past 5 years of performance.
E-7 E-8 16-00939	Affidavits of Service -- Proof of Service Folder with notice letters to customers and attorney(s) and tracking numbers.
E-3 16-00939	April 4, 2018 letter from Attorney Zamansky stating client does not oppose expungement.
E-2 16-00939	Sworn Statement of Morey-Noble
E-9 E-7 15-02640	Proof of Service Folder with notice letters to customer and tracking numbers.
E-1 Tab 3	15-02640 Statement of Claim Paragraph 5.4/5.7/7.9 (pg. 22).

E-11 15-02640	Customer complaint filed with Puerto Rico Office of Financial Institutions on June 28, 2015.
E-11a 15-02640	Translation into English of email to Vanessa Toledo.
E-12 E-7 Ref. No. 1250230	SERVICE ATTEMPTED BUT NOT COMPLETED – Proof of Service with note left “Ready for Pick-up”.
E-10 Ref. No, 1250230	Affirmation of Attorney Hector H. Colon Atienza, family member of customer
E-2 Tab 6 Ref. No, 1250230	March 28, 2018 letter from Hector H. Colon Atienza, Esq.
E-2 Ref. No, 1250230	April 27, 2005 UBS letter to Morey-Noble regarding customer complaint filed. April 21, 2005 Morey Noble memorandum with explanation. March 22, 2005 Morey-Noble memorandum to branch manager.
E-13 E-7 14-01561	Proof of Service Folder with notice letters to customers and attorney(s) and tracking numbers.
E-2 14-01561	Morey-Noble sworn statement. List of dealings with “Client B”
E-2 Morey-Noble Tab 14-01561	November 3, 2014 Morey-Noble email forwarding bullet points to UBS attorneys.
E-14 E-7 16-03089	Proof of Service Folder with notice letters to customer and tracking numbers.
E-2 16-03089	Morey-Noble sworn statement (page 2 paragraph 7).
Claimant’s Respondents’ Exhibit 20-25 16-03089	Document for UBS campaign to encourage customers to open lines of credit.

Jose Zorrilla	
Exhibit Number	Exhibit Description
E-1 Tab 3 Sub Tabs 1-14	Binder with each customer statements of claim and other documents for expungement hearing evidence.
E-2 Zorrilla Tab	Jose Zorrilla current CRD#4790973.
E-1	Zorrilla Matters in Binder.

E-16 E-7 14-00073	Proof of Service Folder with notice letters to customer with tracking numbers.
E-17 E-7 14-00265	Proof of Service Folder with notice letters to customer and attorney with tracking numbers.
E-3 14-00265	April 4, 2018 Letter from Attorney Cherdack regarding client not appearing or opposing expungement.
E-3 Tab 2	14-00265 Statement of Claim.
E-18 E-7 14-00562	Proof of Service Folder with notice letters to customer with tracking numbers.
E-3 Tab 3	14-00562 Statement of Claim.
E-19 No Case 14- 0429589	Proof of Service Folder with notice letters to customer with tracking numbers.
E-3 Tab 13	September 30, 2017 correspondence from SEC with reference "OMB Number 3235-0547"
E-1 (Tab 13) Bates pg.615	August 25, 2015 Riker Danzig (UBS law firm) letter to Lectora, denying claims.
E-1 (Tab 13) Bates pg. 617	July 12, 2016 Riker Danzig (UBS law firm) letter to Lectora denying his claims.
E-1 (Tab 13) Bates pg.599	Lectora request for mediation
E-1 (Tab 13) Bates pg. 608	Lectora alleges he was shown "false customer" account on J. Zorrilla's computer/laptop.
E-20 E-7 14-00844	Proof of Service Folder with notice letters to customer with tracking numbers.
E-3 Tab 4	14-00844 Statement of Claim.
E-21 E-7 14-01785	Proof of Service Folder with notice letters to customer with tracking numbers.
E-3 Tab 5	14-01785 Statement of Claim.

Claimant's 69-11 14-01785	J. Zorrilla's March 14, 2012 notes from meeting with client's Board of Directors (explaining investment options).
E-3 Tab 6	14-02884 Statement of Claim.
E-22 E-7 14-02884	Proof of Service Folder with notice letters to customer and attorney with tracking numbers.
E-3 14-02884	April 23, 2018 letter from Attorney Sam Edwards regarding client not appearing and not opposing expungement.
E-3 Tab 7	14-03016 Statement of Claim.
E-23 E-7 14-03016	Proof of Service Folder with notice letters to customer and attorney with tracking numbers.
E-3 14-03016	April 23, 2018 letter from Attorney Mougey regarding client not appearing and not opposing expungement and blaming UBS.
E-24 14-03016	Award in Customer case Number 14-03016.
E-25 E-7 14-03074	Proof of Service Folder with notice letters to customer and attorney with tracking numbers.
E-3 Tab 8	14-03074 Statement of Claim.
E-3 14- 03074	April 23, 2018 letter from Attorney Mougey regarding client not appearing and not opposing expungement and blaming UBS. Customer letter supporting expungement.
E-7 E-26 15-00104	Proof of Service Folder with notice letters to customer and attorney with tracking numbers.
E-3 15- 00104	Customer affidavit (Martel) supporting expungement.
E-3 Tab 9 15-00104	15-00104 Statement of Claim (Pgs. 4, 5, 11, 13).
E-7 E-27 15-01708	Proof of Service Folder with notice letters to customers and attorney Mougey with tracking numbers.
E-3 15-01708	April 20, 2018 letter from Attorney Mougey stating client does not oppose expungement; believes UBS at fault.
E-3 Tab 10	15-01708 Statement of Claim.
E-7 E-28 16-02674	Proof of Service Folder with notice letters to customer with tracking numbers.
E-3 16-	Customer affidavit supporting expungement.

02674	
E-3 Tab 12 16-02674	16-02674 Statement of Claim.
E-7 E-29 16-00759	Proof of Service Folder with notice letters to customer and attorney Vicente with tracking numbers.
Claimant's 69-15 UBS AA-111 Zorrilla 20, 24 and 32	Zorrilla email regarding break-up of group and requesting assignment of accounts to him.
Claimant's 69-20 & 69-19	November 25, 2014 correspondence regarding Zorrilla going on PIP on September 25, 2014.
Claimant's 69-23	March 3, 2015 communication with UBS Human Resources, in Spanish, regarding Zorrilla complaints about work environment and being placed in cubicle.
Claimant's Lowry 70-5	FINRA suitability rule.
E-7 E-30 15-01763	Proof of Service Folder with notice letters to customer and attorney Mougey with tracking numbers.
E-3 15-01763	April 20, 2018 letter from Attorney Mougey stating client does not oppose expungement; believes UBS at fault.
E-3 Tab 11 15-01763	15-01763 Statement of Claim.

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Any recommendation of expungement by the Panel is made with the understanding that, pursuant to Notice to Members 04-16, Claimants Morey-Noble, Zorrilla, and Caban must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Claimant Caban

The Panel recommends the expungement of all references to claims involving CEFs in the below-captioned arbitrations from registration records maintained by the CRD for Claimant Caban (CRD# 4628849):

14-01645
14-02218
14-02544
14-02878
14-03020
14-03404
15-01692
15-01829
16-02652

Pursuant to Rule 12805 of the Code of Arbitration Procedure (the "Code"), the Panel has made the following Rule 2080 affirmative findings of fact:

14-01645

The Panel determined, pursuant to Rule 2080(b)(1)(C), that the claims and allegations are false, based upon a showing that Claimant Caban provided credible testimony and documentary evidence establishing that:

1. The customers were very sophisticated investors with experience investing in CEFs dating back to the very first one in 1995.
2. The customers made much more money over the years with these funds than they ultimately lost, which is clearly reflected in the small settlement when compared to the amount claimed.
3. In 2008, when the trust account was created, Claimant Caban, along with multiple inside and outside consultants/specialists, got involved as advisors in order to consolidate, aggregate and transfer the accounts. Many transactions were involved that were complex, with many tax consequences. The customers' planning and recommendations were prepared by a group of experts, hired or employed by Respondents, in various fields. This group took great care and attention to detail in advising the customers. It was not Claimant Caban alone who advised these customers.
4. In 2012/2013, Claimant Caban had five account reviews and presentations with the customers, which the Panel examined. In each instance, Claimant Caban recommended that the clients reduce exposure to risk in the CEFs and to Puerto Rico.

5. The customers refused at each meeting to follow these recommendations and continued with CEFs, which had historically been so profitable for them.
6. Claimant Caban's attorney submitted a letter from the customers' attorney stating that the customers do not oppose the expungement.

14-02218

The Panel determined, pursuant to Rule 2080(b)(1)(C), that the claims and allegations are false, based upon a showing that Claimant Caban provided credible testimony and documentary evidence establishing that:

1. The customers were well-educated and sophisticated high net worth customers.
2. The customers only kept about 10% of their assets with Respondents.
3. Claimant Caban tried to have the customers consolidate assets so the customers could manage all the investment risks, but the customers always declined his recommendations.
4. Presentations were made for the customers to convince them to diversify along other types of assets and products, but the customers also declined Claimant Caban's advice.
5. The low settlement amount indicated to the Panel that the customers enjoyed many years of positive cash flows by holding the CEFs.
6. Claimant Caban's attorney submitted a letter from the customers' attorney stating that the customers do not oppose the expungement.

14-02544

The Panel determined, pursuant to Rule 2080(b)(1)(A) and (C), that the claims and allegations are false and clearly erroneous. The Panel made these findings based upon a showing that Claimant Caban provided credible testimony and documentary evidence establishing that:

1. This was a high net worth customer who was not sophisticated with investments and not fluent in English. When the Panel expressed concern about these facts, Claimant Caban testified that he explained all risks and investment disclosure documents to the customer, in Spanish, thoroughly. The Panel found this explanation credible.
2. This customer enjoyed, for about seven years, income generated from CEFs before the 2013 Puerto Rico market crash. From a total investment return perspective, the customer came out ahead financially.
3. The customer always told Claimant Caban that he "*couldn't care less about the cow as long as it was producing good milk*"; an analogy to confirm the customer's goal was to receive income.

4. The Panel took note that Claimant Caban and the customer continue to be friends.
5. The Panel took note that Claimant Caban's attorney submitted a letter from the customer's attorney stating that the customer does not oppose the expungement.

14-02878

The Panel determined, pursuant to Rule 2080(b)(1)(A) and (C), that the claims and allegations are false and clearly erroneous, based upon a showing that Claimant Caban provided credible testimony and documentary evidence establishing that:

1. The customers had a high net worth and were very sophisticated clients.
2. The account with UBSPR was originally opened in 2009 with \$400,000.00, of which \$200,000.00 was placed in AA Cofinas. The customers' statement of claim incorrectly stated that these investments were high risk; however, at the time they were purchased, Cofinas were in fact the best credit available in Puerto Rico and were very suitable for these customers.
3. The customers' account grew to about \$800,000.00.
4. In 2010, Claimant Caban made a formal presentation to the customers suggesting they diversify their positions geographically and by asset type. The customers declined this advice.
5. The customers only had about 15% of their total investments with UBSPR, and 100% of those were in CEFs. The customers also had accounts at three other broker dealers in Puerto Rico, as well as positions in U.S. mainland-based money markets that the customers purchased directly.
6. Claimant Caban's attorney submitted a letter from the customers' attorney stating that the customers do not oppose the expungement.

14-03020

The Panel determined, pursuant to Rule 2080(b)(1)(C), that the claims are false, based upon a showing that Claimant Caban provided credible testimony and documentary evidence establishing that:

1. Claimant Caban performed a Financial Goals Analysis for the customers, and as a result, did not recommend a 100% exposure in CEFs. After determining the amount of income needed, Claimant Caban was able to diversify 25% of the customers' portfolio in equities, thus minimizing their CEF risk exposure.

2. The initial investments in CEF's were made in 2010 and the customers enjoyed several years of high tax-exempt returns before the Puerto Rico market crash in 2013.
3. Claimant Caban's attorney submitted a letter from the customers' attorney stating that the customers do not oppose the expungement.

14-03404

The Panel determined, pursuant to Rule 2080(b)(1)(C), that the claims and allegations are false, based upon a showing that Claimant Caban provided credible testimony and documentary evidence establishing that:

1. This case involves two separate accounts of a husband and wife. The husband was very sophisticated but the wife was not, although she was a retired judge. However, Claimant Caban usually met with the husband and wife together to review both accounts, and the husband would always assist his wife.
2. The husband had prior experience with CEFs at other broker dealers, which he sold to purchase CEFs with Respondents, around 2007. The husband's account grew from an initial amount of \$344,000.00 and closed at \$500,000.00.
3. The wife's account value was always around \$50,000.00.
4. The customers enjoyed six to seven years of good positive cash flow and returns on the CEFs before the Puerto Rico market collapsed in 2013.
5. Claimant Caban testified that he always explained the various investments and their risks in great detail to the customers.
6. Claimant Caban's attorney submitted a letter from the customers' attorney stating that the customers do not oppose the expungement.

15-01692

The Panel determined that, pursuant to Rule 2080(b)(1)(C), that the claims and allegations are false, based upon a showing that Claimant Caban provided credible testimony and documentary evidence establishing that:

1. This customer was the mother of Claimant Caban's then fiancé. The Panel was concerned about this close relationship and how it impacted the investment advice given. Claimant Caban explained that he too was concerned. The first couple of meetings explaining the CEFs took place at Claimant Caban's home, but he quickly moved those meetings into Respondents' offices, with a manager present, to "professionalize & formalize" the meetings.

2. The customer had some investment knowledge, but she was not sophisticated. She had some money from a previous employment lawsuit that she won, but Claimant Caban did not handle those funds.
3. The customer gave Claimant Caban \$114,000.00 from the proceeds of a home sale to invest with Respondents.
4. Due to his concerns about how the customer managed cash and the fact that she was retired, Claimant Caban and the customer discussed her need to generate as much recurring income as possible. For this reason, her investment was put in CEFs.
5. The Panel considered as significant a letter submitted by the customer's attorney stating that the customer did not oppose expungement. This indicated to the Panel that the customer did not think Claimant Caban had done anything wrong.

15-01829

The Panel determined that, pursuant to Rule 2080(b)(1)(C), the claims and allegations are false, based upon a showing that Claimant Caban provided credible testimony and documentary evidence establishing that:

1. The customer was a successful and very sophisticated investor and businessman. He had accounts in various broker dealers and had CEFs since before 2007. As an avid investor, the customer inquired into every new Puerto Rico municipal deal before Claimant Caban had even heard of them. The customer always wanted a \$200,000.00 to \$250,000.00 portion of each original issue.
2. The customer enjoyed many years of positive cash flows from CEFs.
3. In 2012, Claimant Caban gave the customer a presentation explaining that the customer should not only diversify among asset categories, but should also geographically move investments away from Puerto Rico. The customer did not take Claimant Caban's advice.
4. Claimant Caban's attorney submitted a letter from the customer's attorney stating that the customer does not oppose the expungement.

16-02652

The Panel determined that, pursuant to Rule 2080(b)(1)(C), the claims and allegations are false, based upon a showing that Claimant Caban provided credible testimony and documentary evidence establishing that:

1. The customer became a client of Claimant Caban in 2009, when a colleague of hers, who was a respected customer of Claimant Caban, made the introduction. In 2009, the customer received a large payout as part of a labor reduction in her employment. She invested those funds with Respondents, mostly in CEFs,

because this investment provided her with the monthly income she needed to replace lost wages.

2. The customer took out a line of credit ("LOC") to help fund the restaurant operations of the Quizno's franchise she owned, and to consolidate other bank loans.
3. The Panel found that the customer's statement of claim left out many critical details and was not credible. She denied knowing about the LOC but according to testimony, during an internal investigation of Respondents, she issued 10 checks from the LOC account she claimed not to have known about. She claimed that the account was opened with \$300,000.00 but only had proof of \$70,000.00 of that alleged amount.
4. In 2009, the CEFs were the most suitable investment to meet the customer's stated investment and financial goals.
5. Over four years, the customer enjoyed positive cash flow from these CEF investments.

Claimant Morey-Noble

The Panel recommends the expungement of all references to claims involving CEFs in the below-captioned arbitrations from registration records maintained by the CRD for Claimant Morey-Noble (CRD# 4054932):

14-01561
14-01595
15-02640
16-00939
16-03089

Pursuant to Rule 12805 of the Code, the Panel has made the following Rule 2080 affirmative findings of fact with respect to each case:

14-01561

The Panel determined that, pursuant to Rule 2080(b)(1)(C), the claims and allegations are false, based upon a showing that Claimant Morey-Noble provided credible testimony and documentary evidence establishing that:

1. The customer was a retired medical doctor who was an educated person, but not necessarily a sophisticated investor.
2. The customer had a friend with him at all of his meetings with Claimant Morey-Noble to help him understand the advice being given. The friend, in fact, had referred the customer to Claimant Morey-Noble.
3. Claimant Morey-Noble met with the customer and his friend quite often, and the friend would further explain and insure that the customer understood what

Claimant Morey-Noble said. The other friend was invested in CEFs and was very knowledgeable about these investments.

4. The customer had other brokerage accounts, as well as fully paid for real estate in Florida. This indicated to the Panel that the customer had diversified investments and was not totally invested in CEFs; he was diversified geographically and with other types of investments.
5. The customer's account with Respondents was opened in late 2008 and his Puerto Rico holdings were diversified across account classes (CEFs, bonds, mutual funds, municipals), at his own insistence. He did not have any lines of credit/loans.
6. Claimant Morey-Noble recommended diversification of his Puerto Rico-based investments to this customer. The customer insisted on investing 100% in tax-free Puerto Rico income. The customer didn't follow Claimant Morey-Noble's advice to diversify his Puerto Rico-based investments.

14-01595

The Panel determined that, pursuant to Rule 2080(b)(1)(C), the claims and allegations are false, based upon a showing that Claimant Morey-Noble provided credible testimony and documentary evidence establishing that:

1. Claimant Morey-Noble inherited this customer when she brought her account over from another broker dealer. The customer already had CEFs in her investment holdings at the time of the transfer.
2. The customer was knowledgeable about investing. She had Keogh, IRA and real estate investments.
3. The customer declined Claimant Morey-Noble's recommendations for diversification and insisted on Puerto Rico based tax exempt products.
4. The customer never complained about CEFs from 2008 to 2013 and brought in new money to purchase more CEFs.
5. In addition, the customer had another customer with her in meetings with Claimant Morey-Noble, who also helped to explain CEFs.
6. Claimant Morey-Noble was able to show that he ran calculations of different investment options for this customer, in March 2013 (Claimant Morey-Noble's Exhibit 74-42), and he provided the Panel with the notes he had written on this customer.
7. Claimant Morey-Noble also recommended mutual funds to this customer, but she declined.

15-02640

The Panel determined, pursuant to Rule 2080(b)(1)(C), that the claims and allegations are false, based upon a showing that Claimant Morey-Noble provided credible testimony and documentary evidence establishing that:

1. Claimant Morey-Noble and another financial advisor, Claimant Pesquera, inherited this customer account in 2011. The account held Puerto Rico Pension Obligation Bonds ("POB"), not CEFs. Claimant Pesquera was the primary broker on this account.
2. The customer seemed to acknowledge in the statement of claim that these POBs were sold by another financial advisor, and not Claimant Morey-Noble.
3. No other trades were ever executed in this account.
4. Claimant Morey-Noble raised the issue of diversification with the customer, but because the POBs were in a loss position, the customer chose to hold them and not diversify.

16-00939

The Panel determined, pursuant to Rule 2080(b)(1)(C), that the claim, allegation, or information is false, based upon a showing that Claimant Morey-Noble provided credible testimony and documentary evidence establishing that:

1. The accounts held CEFs ever since they were opened, in 2000 and 2003, when Claimant Morey-Noble was not yet employed by UBSPR.
2. Claimant Morey-Noble inherited these accounts from a departing financial advisor. Claimant Morey-Noble provided evidence that the original complaint was filed with the Puerto Rico Office of Financial Institutions in June 2015. (See E-11).
3. When questioned by the Panel about these customers, Claimant Morey-Noble explained that these customers were two older women, a mother and daughter. The daughter held power of attorney for her mother and was able to sign documents on her mother's behalf. There were special dynamics between the daughter and mother, and a son who did not want to work with Claimant Morey-Noble. This indicated to the Panel that Claimant Morey-Noble was not controlling investment decisions.
4. The only transaction Claimant Morey-Noble executed was a trade from one CEF to another, to increase cash flow, as the customer wanted.

16-03089

The Panel determined, pursuant to Rule 2080(b)(1)(C), that the claims and allegations are false, based upon a showing that Claimant Morey-Noble provided credible testimony and documentary evidence establishing that: