

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimants

Hector E. Rodriguez-Lopez
Myrna L. Rivera Marengo
Angel M. Cruz Colon
Carmen Ortiz Nevarez
William Rodriguez Reyes
Betzaida Hernandez

Case Number: 15-02536

vs.

Respondents

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

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 Hector E. Rodriguez-Lopez, Myrna L. Rivera Marengo, Angel M. Cruz Colon, Carmen Ortiz Nevarez, William Rodriguez Reyes, and Betzaida Hernandez: W. Scott Greco, Esq., Greco & Greco, P.C., McLean, Virginia, and Luis E. Minana, Esq. and Luis Elvin Gonzalez, Esq., Espada, Minana & Pedrosa Law Offices PSC, San Juan, Puerto Rico.

For Respondents UBS Financial Services Incorporated of Puerto Rico (“UBSPR”) and UBS Financial Services, Inc. (“UBS”): Andrew W. Sidman, Esq., Nikolas S. Komyati, Esq., and Kathryn B. Rockwood, Esq., Bressler, Amery & Ross, P.C., Florham Park, New Jersey, and Roberto C. Quinones-Rivera, Esq., McConnell Valdes, LLC, San Juan, Puerto Rico.

CASE INFORMATION

Statement of Claim filed on or about: September 24, 2015.

Myrna L. Rivera Marengo signed the Submission Agreement: September 19, 2015.

Hector E. Rodriguez-Lopez signed the Submission Agreement: September 21, 2015.

Angel M. Cruz Colon signed the Submission Agreement: September 21, 2015.

Carmen Ortiz Nevarez signed the Submission Agreement: September 21, 2015.

Amended Statement of Claim filed on or about: November 6, 2015.

William Rodriguez Reyes signed the Submission Agreement: November 6, 2015.

Betzaida Hernandez signed the Submission Agreement: November 6, 2015.

Statement of Answer filed by Respondents on or about: March 10, 2016.
UBS Financial Services Incorporated of Puerto Rico signed the Submission Agreement: March 9, 2016.
UBS Financial Services, Inc. signed the Submission Agreement: March 9, 2016.

Motion in Limine to Exclude Evidence Relating to FINRA Arbitration Awards filed by Respondents on or about: April 3, 2017.
Response in Opposition to Respondents' Motion in Limine to Exclude Other Arbitration Awards filed by Claimants on or about: April 7, 2017.
Reply in Support of Motion in Limine to Exclude Evidence Relating to FINRA Arbitration Awards filed by Respondents on or about: April 11, 2017.

Motion in Limine to Exclude Regulatory Settlements filed by Respondents on or about: April 3, 2017.
Response in Opposition to Respondents' Motion in Limine to Exclude Regulatory Settlements filed by Claimants on or about: April 7, 2017.
Reply in Support of Motion in Limine to Exclude Regulatory Settlements filed by Respondents on or about: April 11, 2017.

CASE SUMMARY

In the Statement of Claim, as amended, Claimants asserted the following causes of action: (1) violation of the Puerto Rico Uniform Securities Act, securities fraud, common law fraud, and constructive fraud; (2) unsuitability; (3) breach of fiduciary duty; (4) negligence and negligent supervision; (5) breach of contract; and (6) Respondeat Superior. The causes of action relate to, among other things, Claimants' investments in Puerto Rico bonds and 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, as amended, Claimants requested: (1) compensatory damages in the amount of \$840,000.00, an award of well-managed account damages, or a greater amount as determined by the Panel; (2) interest; (3) costs, expert witness fees, and FINRA fees; (4) attorneys' fees; (5) punitive damages; and (6) such other and further relief as determined by the Panel.

In the Statement of Answer, Respondents requested: (1) that Claimants take nothing by their claims and that their claims be dismissed in their entirety, with prejudice; (2) fees and costs be assessed against Claimants; (3) that the Panel make specific findings to allow expungement of any record of this arbitration from the Central Registration Depository ("CRD") records of non-party Franco Carrasco ("Carrasco"), and any other affected employee of Respondents; and (4) such other and further relief deemed just and equitable by the Panel.

In Respondents' opening statement, Respondents requested attorneys' fees.

At the close of the hearing, Respondents withdrew their request for attorneys' fees.

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 in Limine to Exclude Evidence Relating to FINRA Arbitration Awards, in which they stated that prior awards hold no precedential value, and are irrelevant, hearsay, and prejudicial. In Claimants' Response, Claimants asserted that arbitration awards are admissible, and that it is hypocritical to ask the Panel to consider the findings of an SEC Administrative Law Judge ("ALJ") while trying to exclude arbitration awards and regulator findings from evidence. In their Reply, Respondents stated that arbitration awards are not analogous to the ALJ decision, which has nothing to do with this Motion, and Claimants' Response does not dispute that the awards are prejudicial, nor that any probative value outweighs that prejudice.

Respondents filed a Motion in Limine to Exclude Regulatory Settlements, in which they stated that the regulatory settlements are inadmissible because: they contain unadjudicated findings that Respondents did not admit; they are not an indication of guilt; admitting them would undermine strong public policy in favor of settlement agreements; and what little probative value they may have is outweighed by their clear prejudice. In Claimants' Response, Claimants asserted that regulatory findings are admissible. In Respondents' Reply, Respondents sought to clarify several misstatements allegedly made by Claimants in their Response.

During the second set of evidentiary hearings in this matter, the Panel heard oral arguments from the parties and granted both Motions.

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 (if any), 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 Claimant Hector E. Rodriguez-Lopez the sum of \$87,411.00 in compensatory damages.
2. Respondents are jointly and severally liable for and shall pay to Claimant Myrna L. Rivera Marengo the sum of \$19,221.00 in compensatory damages.
3. Respondents are jointly and severally liable for and shall pay to Claimants Angel M. Cruz Colon and Carmen Ortiz Nevarez the sum of \$181,989.00 in compensatory damages.

4. Respondents are jointly and severally liable for and shall pay to Claimant Carmen Ortiz Nevarez the sum of \$5,065.00 in compensatory damages.
5. Respondents are jointly and severally liable for and shall pay to Claimant Betzaida Hernandez the sum of \$3,575.00 in compensatory damages.
6. Respondents are jointly and severally liable for and shall pay to Claimants William Rodriguez Reyes and Betzaida Hernandez the sum of \$223,814.00 in compensatory damages.
7. Claimants' request for interest is denied.
8. Other than forum fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter.
9. Respondents' request for expungement on behalf of non-party Carrasco is denied.
10. Any and all claims for relief not specifically addressed herein, including Claimants' requests for punitive damages and attorneys' fees, are 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	=\$ 1,725.00
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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 are assessed the following:

Respondent UBSPR:

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

Respondent UBS:

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

Discovery-Related Motion Fee

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

One (1) decision on a discovery-related motion on the papers
with one (1) arbitrator @ \$200.00/decision = \$ 200.00

Respondents submitted one discovery-related motion.

Total Discovery-Related Motion Fees = \$ 200.00

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

Contested Motion for Issuance of Subpoena Fee

Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) decision on a contested motion for the issuance of a subpoena
with one arbitrator @ \$250.00 = \$ 250.00

Total Contested Motion for Issuance of Subpoena Fee = \$ 250.00

The Panel has assessed the total \$250.00 contested motion for issuance of subpoena fee 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:

Two (2) pre-hearing sessions with the Panel @ \$1,300.00/session = \$ 2,600.00
Pre-hearing conferences: March 1, 2016 1 session
May 1, 2017 1 session

Twenty-Five (25) hearing sessions @ \$1,300.00/session = \$32,500.00
Hearing Dates: April 17, 2017 2 sessions
April 18, 2017 2 sessions
April 19, 2017 2 sessions
April 20, 2017 2 sessions
April 21, 2017 2 sessions
April 22, 2017 2 sessions
April 23, 2017 2 sessions
February 12, 2018 2 sessions
February 13, 2018 2 session
February 14, 2018 2 sessions
February 15, 2018 2 session
February 16, 2018 3 session

Total Hearing Session Fees = \$35,100.00

The Panel has assessed \$1,300.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$33,800.00 of the hearing session fees jointly and severally to Respondents.

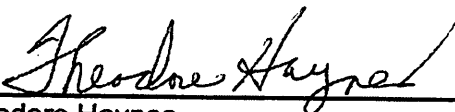
All balances are payable to FINRA Office of Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

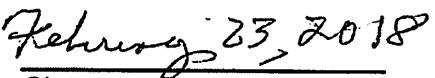
Theodore Haynes	-	Public Arbitrator, Presiding Chairperson
James L. Warren, III	-	Public Arbitrator
Carol Denise Phelps	-	Public Arbitrator

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



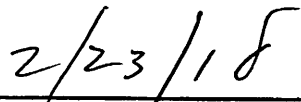
Theodore Haynes
Public Arbitrator, Presiding Chairperson



Signature Date



James L. Warren, III
Public Arbitrator



Signature Date

Carol Denise Phelps
Public Arbitrator

Signature Date

February 23, 2018

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

ARBITRATION PANEL

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James L. Warren, III	-	Public Arbitrator
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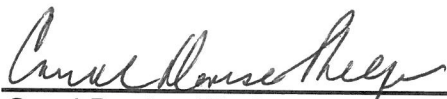
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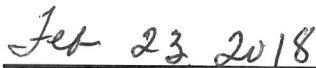
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James L. Warren, III
Public Arbitrator

Signature Date



Carol Denise Phelps
Public Arbitrator



Signature Date

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