

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Henry P. Ingram
Henry P. Ingram, Jr.

Case Number: 19-00684

vs.

Respondent

UBS Financial Services Inc.

Hearing Site: Boca Raton, Florida

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 Henry P. Ingram (“Ingram”) and Henry P. Ingram, Jr. (“Ingram, Jr.”): Jacob Zamansky, Esq., Samuel Bonderoff, Esq. and Matthew Hendrickson, Esq., Zamansky, LLC, New York, New York.

For Respondent UBS Financial Services Inc. (“UBS”): Joseph Serino, Jr., Esq. and Kuan Huang, Esq., Latham & Watkins LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: March 8, 2019.

Ingram signed the Submission Agreement: March 8, 2019.

Ingram, Jr. signed the Submission Agreement: March 8, 2019.

Statement of Answer filed by Respondent on or about: June 10, 2019.

UBS signed the Submission Agreement: March 11, 2019.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: securities fraud; common law fraud and misrepresentation; unsuitability; unsuitable product; breach of fiduciary duty; breach of contract; negligence and failure to supervise, in violation of federal securities

laws, Florida Securities Statutes and common law, and FINRA rules. The causes of action relate to Claimants' investment in the Yield Enhancement Strategy ("YES") offering with Respondent.

Unless specifically admitted 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: equitable relief of rescission of all trading losses, mandates and disgorgement of all fees received by Respondent; total compensatory damages of approximately \$10,000,000.00, including all trading losses and fees received by Respondent; market-adjusted or well-managed account damages representing the amount that Claimants' funds would have earned if invested suitably and appropriately; recovery of pre- and post-award interest, costs, expenses, attorneys' fees, expert fees and forum fees of this arbitration; and punitive damages in such amount as this Panel deemed appropriate and just to punish and deter Respondent from any future similar conduct.

In the Statement of Answer, Respondent requested: denial of any and all claims referenced in Claimant's Statement of Claim or at any other point in this arbitration action in their entirety; an award in favor of Respondent, together with defense costs; and such other and further relief as the Panel deemed appropriate.

During the hearing, Claimants requested total damages in the amount of \$5,042,923.80, as follows: compensatory damages for losses in Claimants' accounts in the amount of \$3,547,793.92; pre-judgment interest in the amount of \$237,532.06, from March 8, 2019 to October 4, 2021, at the rate of 4.25 percent; attorneys' fees on a 33 and 1/3 percent contingency basis in the amount of \$1,182,597.82; costs and expenses in the amount of \$75,000.00; and an unspecified amount of punitive damages.

At the close of the hearing, Claimants withdrew their request for attorneys' fees in the amount of \$1,182,597.82.

During the hearing, Respondent requested: denial of all Claimants' claims with prejudice; expungement of all references to the above-captioned arbitration (Occurrence Number 2029830) from Unnamed Party Brent Lane's ("Lane") Central Registration Depository ("CRD") records; and such other relief as the Panel deemed appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about August 9, 2021, Claimants filed an Unopposed Motion for an Order for a Virtual Final Hearing. On or about August 17, 2021, the Panel issued an Order that the evidentiary hearings would proceed via videoconference. The Panel noted that the parties appeared at the evidentiary hearings held October 4, 2021 through October 8, 2021 and did not contest the hearings being held via videoconference.

The Panel reviewed the BrokerCheck® Report for Unnamed Party Lane. The Panel noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

In recommending expungement, the Panel relied upon the following documentary or other evidence: documentary and testamentary evidence presented at the evidentiary hearing, including that of Unnamed Party Lane.

The Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the recorded hearing by videoconference, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are denied in their entirety.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, are denied.
3. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2029830) from registration records maintained by the CRD for Unnamed Party Lane (CRD Number 4858405) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party Lane 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.

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

The claim, allegation, or information is factually impossible or clearly erroneous.

The Panel has made the above Rule 2080 finding based on the following reasons:

The Panel finds that Unnamed Party Lane did not recommend, nor did Unnamed Party Lane otherwise encourage either Ingram or Ingram, Jr. to purchase or continue to hold an unsuitable options overlay investment product (Respondent's YES).

The Panel finds that Unnamed Party Lane did not, with respect to either Ingram or Ingram, Jr., misrepresent the nature and risk level of the YES product.

With an ultrahigh net worth, Ingram has over forty (40) years of stated investment experience. Ingram is a sophisticated entrepreneur, successful businessperson, and well-seasoned professional. The Panel finds that Ingram aggressively pursued options strategies before, during and after Ingram was Respondent's client. Unnamed Party

Lane's testamentary evidence (that the Panel finds credible) and the documentary evidence (including several executed documents by Ingram) confirms Ingram's full understanding that YES was "aggressive" and "high risk." The latter being "tolerance," which Ingram accepted and acknowledged in writing.

As to the issue of "diminished capacity," and the allegation that, since Ingram was over seventy (70) years of age, Ingram's actions (several telephone conversations with Unnamed Party Lane, Unnamed Party Lane's luncheon with Ingram and Ingram's wife, and Ingram's vacillation in confirming Ingram's last YES order) should have raised "red flags" requiring Unnamed Party Lane, the YES partner team and Respondent's supervisory personnel to re-evaluate Ingram's suitability. The Panel finds Unnamed Party Lane's testimony to be credible, and that the YES partner team and the supervisory personnel acted appropriately and within established FINRA rules and Respondent's policies.

The Panel heard and reviewed Ingram, Jr.'s testimony and the documentary evidence related to Ingram, Jr.'s claim. Ingram, Jr. is a successful entrepreneur, a sophisticated businessperson and actively engaged in, among other things, real estate transactions. The Panel has determined that Ingram, Jr., while encouraged by Ingram, to invest in YES, was well aware of the aggressive nature of the YES product and the associated risks. Ingram, Jr. executed a Client Qualification and Agreement for Options, acknowledging that Ingram, Jr.'s risk tolerance was "high risk." Ingram, Jr. also was provided with disclosure documents, and other written material stating, among other things, that Ingram, Jr. could lose more than Ingram, Jr.'s original investment. The Panel did not find Ingram, Jr.'s testimony credible.

The Panel found no testamentary or documentary evidence supporting Claimants' asserted causes of action upon which their claims have been based. Those causes of action are: securities fraud; common law fraud and misrepresentation; unsuitability; unsuitable product; breach of fiduciary duty; breach of contract; negligence and failure to supervise, in violation of federal securities laws, Florida Securities Statutes and common law, and FINRA rules.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee	= \$ 2,250.00
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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 a party, Respondent is assessed the following:

Member Surcharge	= \$	3,600.00
Member Process Fee	= \$	6,800.00

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:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	= \$	450.00
Pre-Hearing Conference: August 27, 2021	1 session	
Three (3) pre-hearing sessions with the Panel @ \$1,500.00/session	= \$	4,500.00
Pre-Hearing Conferences: July 9, 2019	1 session	
March 16, 2020	1 session	
July 12, 2021	1 session	
Ten (10) hearing sessions @ \$1,500.00/session	= \$	15,000.00
Hearings: October 4, 2021	2 sessions	
October 5, 2021	2 sessions	
October 6, 2021	2 sessions	
October 7, 2021	2 sessions	
October 8, 2021	2 sessions	
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Total Hearing Session Fees	= \$	19,950.00

The Panel has assessed the total hearing session fees jointly and severally to Claimants.

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

ARBITRATION PANEL

Carl Henry Perdue	-	Public Arbitrator, Presiding Chairperson
Leonard Michael Cusano	-	Public Arbitrator
Scott Albert Stringer	-	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

Carl Henry Perdue

Carl Henry Perdue
Public Arbitrator, Presiding Chairperson

10/21/2021

Signature Date

Leonard Michael Cusano

Leonard Michael Cusano
Public Arbitrator

10/21/2021

Signature Date

Scott Albert Stringer

Scott Albert Stringer
Public Arbitrator

10/21/2021

Signature Date

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October 21, 2021

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