

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
NLT Holdings Trust

Case Number: 19-00807

vs.

Respondent
UBS Financial Services Inc.

Hearing Site: Atlanta, Georgia

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: Customer vs. Member

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant NLT Holdings Trust (“Claimant”): Christopher J. Gray, Esq. and Michael J. Giarrusso, Esq., Law Office of Christopher J. Gray, P.C., New York, New York.

For Respondent UBS Financial Services Inc. (“Respondent”): Peter G. Wilson, Esq., Shannon C. Gross, Esq., and Kelsey R. Panizzolo, Esq., Katten Muchin Rosenman LLP, Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: March 25, 2019.
Claimant signed the Submission Agreement: March 25, 2019.

Statement of Answer filed by Respondent on or about: June 28, 2019.
Respondent signed the Submission Agreement: March 28, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: constructive fraud; violation of the Georgia Securities Act; breach of fiduciary duty; breach of contract; unsuitability; and failure to supervise. The causes of action relate to Claimant’s alleged losses in Claimant’s investment accounts, which utilized a product offered by Respondent called the “Yield Enhancement” strategy (“YES”).

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, Claimant requested:

1. Compensatory damages against Respondent in the amount sufficient to compensate Claimant for the financial injury caused by Respondent's conduct and omissions, together with lost income and appreciation;
2. Disgorgement of all sums by which Respondent has been unjustly enriched, including all management fees paid by Claimant;
3. Statutory damages under the Georgia Securities Act;
4. Punitive damages in a sum amount the Panel may deem just and proper;
5. Attorneys' fees and costs, including FINRA hearing fees and expert witness fees;
6. Prejudgment interest on any award in favor of Claimant; and
7. Such other and further relief as the Panel shall deem just and proper.

In the Statement of Answer, Respondent requested:

1. Claimant's Statement of Claim be dismissed in its entirety with prejudice;
2. This matter be expunged from any and all associated persons whose Central Registration Depository ("CRD") records may be affected by this claim; and
3. Such other and further relief as the Panel deems just and proper.

Respondent filed a request for expungement on behalf of Unnamed Party David Youngblood Moran ("Moran") and Unnamed Party Berlin Madison Perkins ("Perkins") of all references to this matter from CRD registration records. Please see the Other Issues Considered and Decided section of this Award for more information.

OTHER ISSUES CONSIDERED AND DECIDED

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

On December 30, 2021, Respondent filed a motion to conduct arbitration by videoconference. On December 31, 2021, Claimant filed an opposition to the motion. On January 5, 2022, Respondent filed its reply. On that same day, the Panel granted Respondent's motion.

During the recorded evidentiary hearing, the parties presented oral argument and evidence on Moran's and Perkins' requests for expungement.

Claimant opposed the requests for expungement.

The Panel reviewed Moran's and Perkins' BrokerCheck® Reports.

In recommending expungement, the Panel relied upon the following documentary or other evidence: verbal testimony of Moran and Perkins; emails and marketing materials which disclosed the risks of the "YES" investment strategy to Claimant; verbal testimony from Claimant's Trustees which proved they were sophisticated investors who understood the risks

associated with options trading; and emails from Moran and Perkins indicating they were responsive when asked questions by Claimant's Trustees about the "YES" strategy.

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

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. Claimant's claims are denied in their entirety.
2. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2029341) from registration records maintained by the CRD for Unnamed Party David Youngblood Moran (CRD Number 2951126) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party David Youngblood Moran must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

The Panel also recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2029174) from registration records maintained by the CRD for Unnamed Party Berlin Madison Perkins (CRD Number 3258154) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party Berlin Madison Perkins 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 false.

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

The Panel finds expungement is appropriate under 2080(b)(1)(C), which is that the claim, allegation, or information is false. The above individuals, Moran and Perkins, conducted appropriate due diligence in recommending the YES strategy, and all claims in Claimant's demand are determined to be false.

3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and attorneys' fees, are denied.

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 = \$ 1,575.00

**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 a party, Respondent is assessed the following:

Member Surcharge = \$ 1,900.00

Member Process Fee = \$ 3,750.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

March 23-27, 2020, postponement requested by PARTIES = WAIVED

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

March 23-27, 2020, cancellation requested by PARTIES = WAIVED

Discovery-Related Motion Fees

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

Claimant submitted one (1) discovery-related motion
Respondent submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees = \$ 400.00

The Panel has assessed \$200.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$200.00 of the discovery-related motion fees to Respondent.

Contested Motion for Issuance of Subpoena Fees

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

Three (3) decisions on contested motions for the issuance of a subpoena with one (1) Arbitrator @ \$200.00 = \$ 600.00

Total Contested Motion for Issuance of Subpoena Fees = \$ 600.00

The Panel has assessed \$300.00 of the contested motion for issuance of subpoena fees to Claimant.

The Panel has assessed \$300.00 of the contested motion for issuance of subpoena fees to Respondent.

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:

Four (4) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	4,500.00
Pre-Hearing Conferences: July 9, 2019	1 session	
August 18, 2020	1 session	
December 23, 2020	1 session	
January 5, 2022	1 session	
Nine (9) hearing sessions @ \$1,125.00/session	= \$	10,125.00
Hearings: January 10, 2022	2 sessions	
January 11, 2022	2 sessions	
January 12, 2022	2 sessions	
January 13, 2022	2 sessions	
January 14, 2022	1 session	
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Total Hearing Session Fees	= \$	14,625.00

The Panel has assessed \$6,750.00 of the hearing session fees to Claimant.

The Panel has assessed \$6,750.00 of the hearing session fees to Respondent.

The Panel has waived \$1,125.00 of the hearing session fees.

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

ARBITRATION PANEL

Bruce W. Bennett	-	Public Arbitrator, Presiding Chairperson
Gary J. Leshaw	-	Public Arbitrator
Larry Mims	-	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

Bruce W. Bennett

Bruce W. Bennett
Public Arbitrator, Presiding Chairperson

01/21/2022

Signature Date

Gary J. Leshaw

Gary J. Leshaw
Public Arbitrator

01/21/2022

Signature Date

Larry Mims

Larry Mims
Public Arbitrator

01/21/2022

Signature Date

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January 21, 2022

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