

## FINRA Dispute Resolution Services

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In the Matter of the Arbitration Between:

Claimant

Steven Weinstock, as Trustee of the  
Steven F. Weinstock Trust DTD 10/26/09

Case Number: 19-00896

vs.

Respondent

UBS Financial Services, Inc.

Hearing Site: Chicago, Illinois

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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 Steven Weinstock, as Trustee of the Steven F. Weinstock Trust DTD 10/26/09 (“Claimant”): Jeffrey B. Kaplan, Esq. and Simon Lassel, Esq., Dimond Kaplan & Rothstein, P.A., Miami, Florida.

For Respondent UBS Financial Services, Inc. (“Respondent”): Rebecca A. Borgese, Esq., Riker Danzig Scherer, Hyland, LLP, Morristown, New Jersey and Christian T. Kemnitz, Esq., Timothy A. White, Esq., and Ben Levine, Esq., Katten Muchin Rosenman LLP, Chicago, Illinois.

### **CASE INFORMATION**

Statement of Claim filed on or about: April 2, 2019.

Claimant signed the Submission Agreement: April 2, 2019.

Statement of Answer filed on or about: July 31, 2019.

Respondent signed the Submission Agreement: May 8, 2019.

### **CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: negligence and breach of fiduciary duty, breach of contract, gross negligence, negligent supervision, and violation of Illinois Securities Law of 1953. The causes of action related to Claimant’s allegation

that Respondent recommended its Yield Enhancement Strategy (“YES”), a risky, complex options strategy that subjected Claimant to excessive and unsuitable risk of loss.

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 damages based on fairness and equity; compensatory damages of \$326,877.36; prejudgment interest at the statutory rate; attorneys’ fees, costs and expenses; punitive damages in an amount sufficient to punish a corporation with a net worth of Respondent; and such other and additional relief as the Panel may deem just and proper.

In the Statement of Answer, Respondent requested the Panel dismiss the Statement of Claim in its entirety, and with prejudice; expunge all references to this matter from Unnamed Party Henry Jakobsze’s (“Jakobsze”) Central Registration Depository (“CRD”) registration records; and for such other and further relief as the Panel deems just and proper.

At the hearing, Claimant requested \$281,525.00 in compensatory damages.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

The Panel reviewed Jakobsze’s BrokerCheck® Report. 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: Jakobsze's testimony.

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. Respondent is liable for and shall pay to Claimant the sum of \$250,000.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant the sum of \$200,000.00 in attorneys’ fees pursuant to the Illinois Securities Law of 1953 and FINRA Arbitrator’s Guide.
3. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2034076) from registration records maintained by the CRD for Unnamed Party Henry Paul Jakobsze (CRD Number 2792685) with the understanding

that, pursuant to Notice to Members 04-16, Unnamed Party Henry Paul Jakobsze 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 findings of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and

The claim, allegation, or information is false.

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

Jakobsze advised Claimant in accordance with the information he was provided by Respondent. The Panel does not expect him to develop independent expertise in the YES, a complex strategy designed to enhance yield. Jakobsze did not hide or obfuscate relevant information. He conveyed to Claimant the information that he had available. He was honest in his dealings with Claimant.

4. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, 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 = \$ 1,425.00

*\*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 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:

August 24-28, 2020, postponement requested by jointly by the parties	= \$	1,125.00
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Total Postponement Fees	= \$	1,125.00

The Panel has assessed \$562.50 of the postponement fees to Claimant.

The Panel has assessed \$562.50 of the postponement fees to Respondent.

**Discovery-Related Motion Fees**

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
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Respondent submitted one (1) discovery-related motion	<hr/>	
Total Discovery-Related Motion Fees	= \$	200.00

The Panel has assessed \$100.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$100.00 of the discovery-related motion 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:

One (1) pre-hearing session with the Panel @ \$1,125.00/session	= \$	1,125.00
Pre-Hearing Conference: September 6, 2019	1 session	

Ten (10) hearing sessions @ \$1,125.00/session	= \$	11,250.00
Hearings:		
November 8, 2021	2 sessions	
November 9, 2021	2 sessions	
November 10, 2021	2 sessions	
November 11, 2021	2 sessions	
November 12, 2021	2 sessions	

Total Hearing Session Fees	= \$	12,375.00
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The Panel has assessed \$6,187.50 of the hearing session fee to Claimant.

The Panel has assessed \$6,187.50 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Philip J. Glick	-	Public Arbitrator, Presiding Chairperson
Michael S. Jordan	-	Public Arbitrator
Maya Steinitz	-	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**

***Philip J. Glick***

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Philip J. Glick  
Public Arbitrator, Presiding Chairperson

**11/22/2021**

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Signature Date

***Michael S. Jordan***

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Michael S. Jordan  
Public Arbitrator

**11/22/2021**

\_\_\_\_\_  
Signature Date

***Maya Steinitz***

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Maya Steinitz  
Public Arbitrator

**11/23/2021**

\_\_\_\_\_  
Signature Date

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November 23, 2021

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