

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Zenith Trust

Case Number: 19-01081

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 a majority-public panel.

REPRESENTATION OF PARTIES

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

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

CASE INFORMATION

Statement of Claim filed on or about: April 19, 2019.

Claimant signed the Submission Agreement: April 19, 2019.

Statement of Answer filed by Respondent on or about: July 29, 2019.

Respondent signed the Submission Agreement: April 29, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: constructive fraud; violations of the Georgia Securities Act; breach of fiduciary duty; breach of contract; and unsuitability. The causes of action relate to Claimant’s investment in Respondent’s Yield Enhancement Strategy program.

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, 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 that the Panel may deem just and proper;
5. Attorneys' fees and costs, including FINRA hearing fees and expert witness fees;
6. Pre-award interest; and
7. Such other and further relief as the Panel shall deem just and proper.

In the Statement of Answer, Respondent requested:

1. Dismissal of the Statement of Claim in its entirety and with prejudice;
2. Expungement of this matter from the Central Registration ("CRD") records of any and all associated persons who 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 Parties David Youngblood Moran and Berlin Madison 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 July 7, 2021, Respondent filed its prehearing brief which included a request for expungement on behalf of Unnamed Parties David Youngblood Moran and Berlin Madison Perkins.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, 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. Respondent's request for expungement of this matter from Unnamed Party David Youngblood Moran's (CRD Number 2951126) and Unnamed Party Berlin Madison Perkins' (CRD Number 3258154) CRD records is denied.

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 of Arbitration Procedure, 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

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
--	------	--------

Claimant submitted one (1) discovery-related motion

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 Arbitrators, including a pre-hearing conference with the Arbitrators, 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: October 20, 2020	1 session	

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	2,250.00
Pre-Hearing Conferences: August 20, 2019	1 session	
September 3, 2020	1 session	

Ten (10) hearing sessions @ \$1,125.00/session	= \$	11,250.00
--	------	-----------

Hearings:	July 26, 2021	2 sessions
	July 27, 2021	2 sessions
	July 28, 2021	2 sessions
	July 29, 2021	2 sessions
	July 30, 2021	2 sessions

Total Hearing Session Fees	= \$ 13,950.00
----------------------------	----------------

The Panel has assessed \$1,350.00 of the hearing session fees to Claimant.

The Panel has assessed \$12,600.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

George Pinckney Shingler	-	Public Arbitrator, Presiding Chairperson
Walter William Harness, Jr.	-	Public Arbitrator
Perry Lee Taylor, Jr.	-	Non-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

George Pinckney Shingler

George Pinckney Shingler
Public Arbitrator, Presiding Chairperson

08/13/2021

Signature Date

Walter William Harness, Jr.

Walter William Harness, Jr.
Public Arbitrator

08/13/2021

Signature Date

Perry Lee Taylor, Jr.
Non-Public Arbitrator

Signature Date

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.

August 13, 2021

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