

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Marjorie Lebenbom

Case Number: 19-01523

vs.

Respondent
UBS Financial Services Inc.

Hearing Site: Detroit, Michigan

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 partially by videoconference.

REPRESENTATION OF PARTIES

For Claimant Marjorie Lebenbom (“Claimant”): Daniel W. Weininger, Esq., Weininger Law, PLLC, Southfield, Michigan.

For Respondent UBS Financial Services Inc. (“Respondent”): Jordan D. Weinreich, Esq., Sherman Atlas Sylvester & Stamelman LLP, Florham Park, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: May 31, 2019.

Claimant signed the Submission Agreement: May 31, 2019.

Statement of Answer filed on or about: July 23, 2019.

Respondent signed the Submission Agreement: June 5, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: statutory conversion – MCL 600.2919a and common law conversion. The causes of action related to allegations of Respondent’s conversion of the funds placed in Claimant’s Resource Management Account.

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 an award of compensatory damages, exemplary damages, treble damages, actual reasonable attorneys' fees, litigation expenses pursuant to MCL 600.2919a, and such other relief as the Panel deems just and appropriate.

In the Statement of Answer, Respondent requested that the Panel dismiss the Statement of Claim with prejudice, grant Respondent its costs in defending against the Statement of Claim, and award such other and further relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

On September 14, 2021, Claimant filed a request for an explained decision. On September 21, 2021, Respondent filed an opposition to the request for an explained decision. At the evidentiary hearing, the Panel denied Claimant's request.

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. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble 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

Postponement Fees

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

November 10-12, 2020, postponement requested by the parties	Waived
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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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Claimant submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	= \$ 200.00
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The Panel has assessed the total discovery-related motion fees to Claimant.

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:

Three (3) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$ 3,375.00
Pre-Hearing Conferences: September 10, 2019	1 session
June 8, 2020	1 session
January 12, 2021	1 session

Eight (8) hearing sessions @ \$1,125.00/session	= \$ 9,000.00
Hearings: October 4, 2021	2 sessions
October 5, 2021	2 sessions
October 6, 2021	2 sessions
October 11, 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 fees 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

Michael John Falvo	-	Public Arbitrator, Presiding Chairperson
Mauricio Kohn	-	Public Arbitrator
Peter A. Cartwright	-	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

Michael John Falvo

Michael John Falvo
Public Arbitrator, Presiding Chairperson

10/22/2021

Signature Date

Mauricio Kohn

Mauricio Kohn
Public Arbitrator

10/22/2021

Signature Date

Peter A. Cartwright

Peter A. Cartwright
Public Arbitrator

10/22/2021

Signature Date

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October 22, 2021

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