

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Cynthia Lambert

Case Number: 19-03726

vs.

Respondent
UBS Financial Services Inc.

Hearing Site: Houston, Texas

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

Claimant Cynthia Lambert (“Claimant”) appeared pro se.

For Respondent UBS Financial Services Inc. (“Respondent”): Melissa J. Gworek, Esq., UBS AG, Nashville, Tennessee.

CASE INFORMATION

Statement of Claim filed on or about: February 14, 2020.

Claimant signed the Submission Agreement: February 12, 2020.

Statement of Answer filed on or about: May 26, 2020.

Respondent signed the Submission Agreement: February 19, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted that Respondent, after her husband’s death, reversed the ACH transactions she made to pay bills and the apology letter she later received was inadequate compensation for the charges incurred and the inconvenience.

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 \$116,000.00 in compensatory damages, plus interest and charges incurred.

In the Statement of Answer, Respondent requested that the Panel dismiss the Statement of Claim in its entirety and with prejudice; attorneys' fees and costs, including expert witness fees; and other and further relief as the Panel deems just and proper.

At the hearing, Claimant requested \$175,000.00 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.

On July 6, 2021, Respondent filed a request for dismissal of Claimant's case ("Motion to Dismiss") pursuant to Rule 12212(c) of the Code of Arbitration Procedure ("Code") for her failure to comply with an order of the Panel. The same day, Claimant filed correspondence in response to the Motion to Dismiss. Also, in an Order dated the same day, the Panel ruled that the Motion to Dismiss would be heard at the evidentiary hearing.

The Panel heard the Motion to Dismiss at the beginning of the evidentiary hearing and denied the Motion to Dismiss on the record.

At the conclusion of Claimant's case-in-chief, Respondent moved to dismiss Claimant's claims ("Second Motion to Dismiss"), alleging a failure to state a claim upon which relief can be granted. Claimant opposed the Second Motion to Dismiss. The Panel denied the Second Motion to Dismiss on the record.

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, 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 is assessed the following:

Member Surcharge = \$ 1,700.00

Member Process Fee = \$ 3,250.00

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 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:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session = \$ 450.00
Pre-Hearing Conference: January 22, 2021 1 session

Four (4) pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 4,500.00
Pre-Hearing Conferences: June 5, 2020 1 session
November 18, 2020 1 session
February 3, 2021 1 session
June 7, 2021 1 session

Two (2) hearing sessions @ \$1,125.00/session = \$ 2,250.00
Hearings: July 7, 2021 2 sessions

Total Hearing Session Fees = \$ 7,200.00

The Panel has assessed \$5,512.50 of the hearing session fees to Claimant.

The Panel has assessed \$1,687.50 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

| | | |
|----------------------------|---|--|
| Brian James Tagtmeier | - | Public Arbitrator, Presiding Chairperson |
| Bartlett Michael Sheinberg | - | Public Arbitrator |
| Martin Samuel Altimore | - | 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

Brian James Tagtmeier

Brian James Tagtmeier
Public Arbitrator, Presiding Chairperson

07/16/2021

Signature Date

Bartlett Michael Sheinberg

Bartlett Michael Sheinberg
Public Arbitrator

07/15/2021

Signature Date

Martin Samuel Altimore

Martin Samuel Altimore
Non-Public Arbitrator

07/15/2021

Signature Date

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July 16, 2021

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