

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimants

Julie Kraff and Colman Kraff,  
as Trustees of the Colman Kraff  
Revocable Trust

Case Number: 20-00941

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: Customers vs. Member

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimants Julie Kraff and Colman Kraff, as Trustees of the Colman Kraff Revocable Trust (“Claimants”): Jacob H. Zamansky, Esq. and Matthew P. Hendrickson, Esq., Zamansky, LLC, New York, New York.

For Respondent UBS Financial Services Inc. (“Respondent”): David L. Goldberg, Esq., Katten Muchin Rosenman LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: March 23, 2020.

Claimants signed the Submission Agreement: March 23, 2020.

Statement of Answer filed on or about: July 13, 2020.

Respondent signed the Submission Agreement: July 17, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimants asserted the following causes of action: fraud, misrepresentation, unsuitability, unsuitable product, breach of fiduciary duty, negligence, and breach of contract. The causes of action relate to Claimants’ allegation that Respondent

solicited and recommended that Claimants invest in Yield Enhancement Strategy, a highly speculative managed account options strategy product, through false and misleading statements about its suitability and risk as an investment.

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, Claimants requested equitable relief of rescission of all trading losses, mandates and disgorgement of all margin interest and fees received by Respondent; compensatory damages of approximately \$500,000.00, including recovery of all trading losses, margin interest, and fees received by Respondent; recovery of pre- and post-award interest, costs, expenses, attorneys' fees, expert fees, and forum fees of this arbitration; and punitive damages in such amount as the Panel deems appropriate and just to punish and deter Respondent from any future similar conduct.

In the Statement of Answer, Respondent requested that the Panel dismiss the Statement of Claim in its entirety, and with prejudice; expungement of this matter, on behalf of Unnamed Party Jeremy Shull ("Shull") and any and all associated persons who may be affected by this claim, of all references to this matter from Central Registration Depository ("CRD") registration records; and such other and further relief as the Panel deems just and proper.

At the hearing, Claimants requested \$730,631.23 in compensatory damages.

At the hearing, Respondent requested expungement of this matter, on behalf of Unnamed Party Sonia M. Attkiss ("Attkiss"), of all references to this matter from CRD registration records.

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

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

The Panel considered Respondent's request for expungement on behalf of Shull and Attkiss, as part of the recorded evidentiary hearing in this matter.

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 Claimants the sum of \$40,000.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimants the sum of \$300.00 for the reimbursement of the non-refundable portion of the Initial Claim Filing Fee.

3. Respondent's request for expungement, on behalf of Shull, of the above-captioned arbitration (Occurrence Number 2070244) from registration records maintained by the CRD is denied.
4. Respondent's request for expungement, on behalf of Attkiss, of the above-captioned arbitration (Occurrence Number 2086910) from registration records maintained by the CRD is denied.
5. 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	=\$ 1,425.00
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*\*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

#### **Late Pre-Hearing Cancellation Fees**

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

September 29, 2021, cancellation requested by parties	=\$ 100.00
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Total Late Pre-Hearing Cancellation Fees	=\$ 100.00
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The Panel has assessed the total late pre-hearing cancellation fees to Respondent.

#### **Postponement Fees**

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

September 7-10 and 13-17, 2021, postponement requested by Claimants	WAIVED
December 6-10, 2021, postponement requested by parties	WAIVED

**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: July 16, 2020		1 session
Seven (7) hearing sessions @ \$1,125.00/session	= \$	7,875.00
Hearings:		
November 29, 2021		2 sessions
November 30, 2021		2 sessions
December 1, 2021		2 sessions
December 2, 2021		1 session
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Total Hearing Session Fees	= \$	9,000.00

The Panel has assessed the total hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Stuart D. Summers	-	Public Arbitrator, Presiding Chairperson
Susan M. Coleman	-	Public Arbitrator
Odalo Joseph Ohiku	-	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**

***Stuart D. Summers***

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Stuart D. Summers  
Public Arbitrator, Presiding Chairperson

**12/08/2021**

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

***Susan M. Coleman***

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Susan M. Coleman  
Public Arbitrator

**12/08/2021**

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

***Odalo Joseph Ohiku***

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Odalo Joseph Ohiku  
Public Arbitrator

**12/09/2021**

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

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December 09, 2021

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