

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

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In the Matter of the Arbitration Between:

Claimant  
Jess DiPasquale

Case Number: 20-01070

vs.

Respondent  
UBS Financial Services Inc.

Hearing Site: New York, New York

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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 partially by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Jess DiPasquale: Alan L. Rosca, Esq., Goldman Scarlato & Penny, PC, Beachwood, Ohio.

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

**CASE INFORMATION**

Statement of Claim filed on or about: March 31, 2020.  
Jess DiPasquale signed the Submission Agreement: March 31, 2020.

Statement of Answer filed by Respondent on or about: July 9, 2020.  
UBS Financial Services Inc. signed the Submission Agreement: June 24, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: negligence; unsuitability; misrepresentation and omissions; breach of fiduciary duty; negligent supervision; and respondeat superior/control person liability. The causes of action relate to Respondent's (Yes") Yield Enhancement Strategy for options trading.

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 compensatory damages, including all “out of pocket” losses plus an award sufficient to compensate him for the lost use of his money; attorneys’ fees; punitive damages; pre-judgment interest from the date of investment, and post judgment interest at the highest legal rate to the date the award is paid by Respondent; costs; and any other and further relief as the Panel, sitting in equity, may deem just and proper.

In the Statement of Answer, Respondent requested that the Panel dismiss the Statement of Claim in its entirety and with prejudice; expunge this matter from the CRD records of Unnamed Party Marc Ridell, and any and all associated persons who may be affected by this claim; and for such other and further relief as the Panel deems just and proper.

At the hearing, Claimant requested compensatory damages in the amount of \$743,021.00; out-of-pocket costs in excess of \$50,000.00; punitive damages; and attorneys’ fees that are equal to 25% of the award, net costs.

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

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

The July 26-30, 2021 hearings were held in person and the August 16, 20 and September 13, 2021 hearings were held by videoconference.

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. Respondent’s request for expungement of Unnamed Party Marc Ridell of the above-captioned arbitration (Occurrence Number 2074638) from registration records maintained by the CRD 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 (“Code”), 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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent UBS Financial Services, Inc. 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

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Total Discovery-Related Motion Fees = \$ 200.00

The Panel has assessed the total discovery-related motion fees to Claimant.

**Contested Motion for Issuance of Subpoena Fees**

Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) decision on a contested motion for the issuance of a subpoena with one (1) Arbitrator @ \$200.00 = \$ 200.00

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Total Contested Motion for Issuance of Subpoena Fees = \$ 200.00

The Panel has assessed \$200.00 of the contested motion for issuance of subpoena 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 Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 2,250.00  
Pre-Hearing Conferences: July 31, 2020 1 session  
July 6, 2021 1 session

Sixteen (16) hearing sessions @ \$1,125.00/session		= \$ 18,000.00
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
	August 16, 2021	2 sessions
	August 20, 2021	2 sessions
	September 13, 2021	2 sessions

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Total Hearing Session Fees = \$ 20,250.00

The Panel has assessed \$10,125.00 of the hearing session fees to Claimant.  
The Panel has assessed \$10,125.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Harrison Johnson	-	Public Arbitrator, Presiding Chairperson
Betty Chen	-	Public Arbitrator
Emily Diamond	-	Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

**Concurring Arbitrators' Signatures**

***Harrison Johnson***

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Harrison Johnson  
Public Arbitrator, Presiding Chairperson

**09/22/2021**

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

***Betty Chen***

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Betty Chen  
Public Arbitrator

**09/21/2021**

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

***Emily Diamond***

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Emily Diamond  
Public Arbitrator

**09/22/2021**

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

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September 23, 2021

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