

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Cheryl E. Amyx, Trustee of the Cheryl Eleanor Amyx
Living Trust U/A 11/7/05

Case Number: 20-02555

vs.

Respondent

UBS Financial Services Inc.

Hearing Site: Washington, D.C.

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.

REPRESENTATION OF PARTIES

For Claimant Cheryl E. Amyx, Trustee of the Cheryl Eleanor Amyx Living Trust U/A 11/7/05 (“Cheryl E. Amyx”): W. Scott Greco, Esq., Greco & Greco, P.C., Mclean, Virginia.

For Respondent UBS Financial Services Inc.: Rebecca K. Lindahl, Esq., Katten Muchin Rosenman LLP, Charlotte, North Carolina.

CASE INFORMATION

Statement of Claim filed on or about: August 10, 2020.

Cheryl E. Amyx signed the Submission Agreement: July 27, 2020.

Statement of Answer filed by Respondent on or about: October 29, 2020.

UBS Financial Services Inc. signed the Submission Agreement: August 11, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: violation of the Virginia Securities Act, common law fraud; securities fraud; breach of fiduciary duty; unsuitable recommendations; negligence; negligent supervision; breach of contract; control person liability; and *respondeat superior*. The causes of action relate to investments in UBS Yield Enhancement Strategy (YES).

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 in the amount of \$445,894.00, plus lost income, fees and commissions charged by Respondent, and/or a greater amount as determined by the arbitration Panel; interest assessed up to the time of payment of the award; punitive damages; costs, FINRA fees; attorneys' fees; and such other and further relief as determined by the arbitration Panel.

In the Statement of Answer, Respondent requested that Claimants' claims be dismissed in their entirety with prejudice; expungement of all references to the above-captioned arbitration (Occurrence Number 2086339) from the registration records of Unnamed Party Roderick von Lipsey (CRD Number 4270444), and any and all associated persons who may be affected by this claim, maintained by the Central Registration Depository ("CRD"); and for 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.

During the evidentiary hearing, Respondent did not pursue the expungement request on behalf of Unnamed Party Roderick von Lipsey. Therefore, the Panel made no determination as to Respondent's request for expungement.

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 Claimant the sum of \$218,699.29 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant the sum of \$8,000.00 in costs.
3. Respondent is liable for and shall pay to Claimant the sum of \$72,899.76 in attorneys' fees pursuant to the D.C. Securities Act.
4. Respondent is liable for and shall pay to Claimant \$300.00 to reimburse Claimant for the non-refundable portion of Claimant's filing fee previously paid to FINRA Dispute Resolution Services.
5. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, 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 = \$ 1,425.00

**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 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

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 the Panel @ \$1,125.00/session = \$ 1,125.00
Pre-Hearing Conference: December 1, 2020 1 session

Eight (8) hearing sessions @ \$1,125.00/session = \$ 9,000.00
Hearings: November 29, 2021 1 session
November 30, 2021 2 sessions
December 1, 2021 2 sessions
December 2, 2021 2 sessions
December 3, 2021 1 session

Total Hearing Session Fees = \$ 10,125.00

The Panel has assessed \$5,062.50 of the hearing session fees to Claimant.

The Panel has assessed \$5,062.50 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Matthew Stephen Duchesne	-	Public Arbitrator, Presiding Chairperson
Sheila D. Collins	-	Public Arbitrator
Francis Henry Dong	-	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

Matthew Stephen Duchesne

Matthew Stephen Duchesne
Public Arbitrator, Presiding Chairperson

12/28/2021

Signature Date

Sheila D. Collins

Sheila D. Collins
Public Arbitrator

12/27/2021

Signature Date

Francis Henry Dong

Francis Henry Dong
Public Arbitrator

12/27/2021

Signature Date

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December 28, 2021

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