

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Robert T. Ratcliff, Sr.
Ratcliff Investments, LLC

Case Number: 19-03051

vs.

Respondent

UBS Financial Services Inc.

Hearing Site: New Orleans, Louisiana

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 Robert T. Ratcliff, Sr. and Ratcliff Investments, LLC (collectively “Claimants”): Jacob H. Zamansky, Esq., Samuel Bonderoff, Esq., and Matt 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: October 9, 2019.
Claimants signed the Submission Agreement: October 9, 2019.

Statement of Answer filed by Respondent on or about: January 13, 2020.
Respondent signed the Submission Agreement: October 16, 2019.

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 under the federal securities laws, FINRA regulations, Louisiana securities

statutes (including Louisiana Revised Statutes 51:712 and 51:714) and any applicable common law. The causes of action relate to Claimants' alleged losses in Claimants' investment accounts, which utilized a product offered by Respondent called the "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, Claimants requested:

1. Equitable relief of rescission of all trading losses, mandates and disgorgement of all fees received by Respondent;
2. Compensatory damages of approximately \$1.2 million, including recovery of all trading losses, tax liabilities incurred, margin interest paid and fees received by Respondent;
3. Recovery of pre- and post-award interest, costs, expenses, attorneys' fees, expert fees, and forum fees of this arbitration; and
4. Punitive damages in such amount as this Panel deems appropriate and just to punish and deter Respondent from any future similar conduct.

In the Statement of Answer, Respondent requested:

1. Claimants' Statement of Claim be dismissed in its entirety and with prejudice;
2. This matter be expunged from Central Registration Depository ("CRD") records of Unnamed Party Christopher Robert Black ("Black") and any and all associated persons who may be affected by this claim; and
3. 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 opening and closing arguments at the evidentiary hearing, Respondent requested expungement of this matter from Black's CRD record. Claimants did not oppose the request. However, Respondent did not present further oral argument or evidence for expungement. Therefore, the Panel made no determination with respect to Black's expungement 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. Respondent is liable for and shall pay to Robert T. Ratcliff, Sr. the sum of \$133,000.00 in compensatory damages.

2. Respondent is liable for and shall pay to Robert T. Ratcliff, Sr. interest on the above-stated sum at the rate of 3.00% per annum from the date of service of the Award until the Award is paid in full.
3. Respondent is liable for and shall pay to Robert T. Ratcliff, Sr. the sum of \$44,000.00 in attorneys' fees pursuant to Louisiana Revised Statutes 51:712 and 51:714.
4. Respondent is liable for and shall pay to Ratcliff Investments, LLC the sum of \$192,000.00 in compensatory damages.
5. Respondent is liable for and shall pay to Ratcliff Investments, LLC interest on the above-stated sum at the rate of 3.00% per annum from the date of service of the Award until the Award is paid in full.
6. Respondent is liable for and shall pay to Ratcliff Investments, LLC the sum of \$64,000.00 in attorneys' fees pursuant to Louisiana Revised Statutes 51:712 and 51:714.
7. 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	=\$ 2,000.00
--------------------------	--------------

**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	=\$ 3,025.00
Member Process Fee	=\$ 6,175.00

Late Pre-Hearing Cancellation Fees

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

February 19, 2021, cancellation requested by Parties	=\$ 300.00
--	------------

Total Late Pre-Hearing Cancellation Fees	=\$ 300.00
--	------------

The Panel has assessed \$150.00 of the late pre-hearing cancellation fees jointly and severally to Claimants.

The Panel has assessed \$150.00 of the late pre-hearing cancellation fees to Respondent.

Postponement Fees

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

January 3-7, 2022, 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 @ \$1,400.00/session	= \$	1,400.00
Pre-Hearing Conference: January 23, 2020	1 session	

Eight (8) hearing sessions @ \$1,400.00/session	= \$	11,200.00
Hearings:		
January 10, 2022	2 sessions	
January 11, 2022	2 sessions	
January 12, 2022	2 sessions	
January 13, 2022	2 sessions	

Total Hearing Session Fees	= \$	12,600.00
----------------------------	------	-----------

The Panel has assessed \$6,300.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$6,300.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Mark A. Myers	-	Public Arbitrator, Presiding Chairperson
Alan Lee Powell	-	Public Arbitrator
James Wesley Bearden	-	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

Mark A. Myers

Mark A. Myers
Public Arbitrator, Presiding Chairperson

01/20/2022

Signature Date

Alan Lee Powell

Alan Lee Powell
Public Arbitrator

01/21/2022

Signature Date

James Wesley Bearden

James Wesley Bearden
Public Arbitrator

01/20/2022

Signature Date

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.

January 21, 2022

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