

# UBS Loses Another YES Case, Will Have to Pay Nearly \$3.9 Million

BARRON'S

By [Andrew Welsch](#) [Follow](#)

Updated May 10, 2022 3:00 pm ET / Original May 10, 2022 2:07 pm ET

An arbitration panel ordered [UBS](#) to pay nearly \$3.9 million in a dispute with a couple who accused the company of negligent supervision and breach of fiduciary duty related to a “highly speculative” options investing strategy.



The YES strategy involved margin accounts and relied on both call and put options.  
Gianluca Colla/Bloomberg

A UBS spokesperson declined to comment on the case.

The Swiss bank is facing a [raft of litigation](#) related to the Yield Enhancement Strategy, or [YES](#). One investor filed a lawsuit [seeking class-action](#) status Dec. 5 in federal court in New York. Dozens of other investors have filed arbitration claims, some of which have resulted in arbitrators awarding damages to investors.

In the latest case to reach resolution, clients John and Elise Oren won their arbitration award after 20 hearing sessions that stretched from December to March, according to [the arbitration award](#). The couple accused UBS of breach of fiduciary duty, negligence, negligent supervision, fraud, breach of contract, and violations of securities laws.

John Oren, 70, tells Barron's Advisor that he and his wife, Elise, 69, had a conservative portfolio. His former UBS financial advisors, Oren says, presented YES as a low-yield, low-risk strategy when it was in fact a “very high-risk strategy.” Oren and his wife ended up losing \$2 million, he says.

“As you can imagine, my wife and I are delighted with the decision by the panel of [arbitrators] who heard the case,” Oren says.

Still, he says he remains bitter about the experience. Asked whether he remains a UBS client, Oren replies: “Absolutely not.”

A Houston-based arbitration panel ruled in their favor May 5, ordering UBS to pay about \$2.9 million in compensatory damages and \$965,000 in attorneys' fees. The arbitrators also ordered UBS to pay the bulk of the costs for the arbitration hearings.

UBS denied the allegations and sought dismissal of the Orens' claims, according to the arbitration award. The firm also sought to expunge the Orens' complaints from the regulatory records of their advisors but did not follow through on the request, so the arbitrators did not ultimately rule on the matter, according to the award.

Jeffrey Erez, a Miami-based attorney who represented the Orens, says his clients called multiple witnesses, including members of the advisor team that developed YES. The Orens had never met that team; they invested in the strategy through their UBS financial advisors, he says.

Erez, who represents 20 other investors in YES arbitration cases, says the Orens' multimillion-dollar win is "the strongest award to date against UBS."

The YES strategy, which involved margin accounts and relied on both call and put options, was developed by a team of financial advisors who joined UBS in 2015 from [Credit Suisse](#). The strategy was designed to boost yields on client accounts. The bank made it available to clients of other financial advisors, and assets in YES ballooned. Starting in December 2018, YES accounts incurred substantial losses totalling about \$1.2 billion, or approximately 20% of the \$5.7 billion in the accounts, according to the lawsuit seeking class action status, which was filed by investor Christian Dumontet. He is seeking class-action status on behalf of himself and 1,500 other clients who invested in YES.

More than two dozen arbitration cases have been decided by arbitrators so far; UBS has won 15 and lost 13. Some arbitration panels that ruled against investors also granted expungement requests, thereby erasing client complaints from advisors' public regulatory records.

Write to Andrew Welsch at [andrew.welsch@barrons.com](mailto:andrew.welsch@barrons.com)

---