



UBS Must Pay Clients \$3.9M Over YES Options Strategy

By Jeff Berman

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UBS Financial Services must pay \$2.9 million in compensatory damages plus nearly \$966,000 in legal fees to additional clients who alleged the firm's Yield Enhancement Strategy (YES) — which focused on options-based trading — was unsuitable and inappropriate for their risk tolerance and investment objectives, according to an arbitration award posted on FINRA's website on Thursday.

UBS declined to comment on the arbitration panel's decision on Friday.

In their statement of claim, John Oren and Elise Oren asserted that UBS was guilty of breach of fiduciary duty, negligence, negligent supervision, fraud, breach of contract, and violating the Securities Exchange Act of 1934 and the Texas Securities Act.

The causes of action related to the claimants' allegation that the wirehouse recommended a "highly speculative managed account options strategy product," YES.

In the statement of claim, the clients requested damages between \$1 million and \$5 million, plus unspecified punitive damages, interest, costs and attorneys' fees.

In its statement of answer. UBS requested an award dismissing the statement of

matter from Central Registration Depository records on behalf of Francis Amsler and Marc Laborde, who weren't named in the complaint.

Amsler and Laborde both served as brokers and advisors with UBS from 2008 to 2020 and are now with Rockefeller Capital Management, according to their reports on FINRA's BrokerCheck website.

At the hearing in Houston, the claimants requested damages in the range of \$2.3 million to \$2.9 million, plus \$2.3 million pursuant to the Texas Securities Act for damages/simple interest.

The three-person panel of public arbitrators wound up awarding the claimants \$2.9 million in compensatory damages, plus \$965,657 in attorneys' fees pursuant to the Texas Securities Act. The panel also assessed \$1,800 of "last-minute cancellation fees jointly and severally" to the claimants and the same amount to UBS.

UBS "did not pursue the request for expungement on behalf of" Amsler and Laborde, so the panel said it "made no determination on the issue of expungement," according to the panel.

Amsler and Laborde did not immediately respond to a request for comment.

Although the FINRA arbitration panel's award was less than what the claimants had requested at the hearing, Jeffrey Erez, founder of Erez Law in Miami, which represented them, said he and his clients were pleased with the outcome.

The arbitration panel "did the right thing," Erez told ThinkAdvisor by phone on Friday. "We're very satisfied" with the "very complete award," he said, explaining that one of the advisors had "represented that they would get a yield of 3% on a mandate on this option overlay" and also a 3% cash flow. But "there was no yield and there was no cash flow," he added.

There have already been several disputes between UBS and clients over the YES strategy. Of 28 cases that have gone to a decision, UBS prevailed in 15, while the claimants received at least some compensation in the other 13.

In March, for example, a FINRA arbitration panel ordered UBS to pay nearly \$1.2 million in compensatory damages plus interest to clients who alleged the YES strategy was misrepresented to them and wound up exposing them to risk of loss, according to a FINRA arbitration award.

Erez alone "has 20 cases pending" involving the UBS YES strategy and "settled some" already, he told ThinkAdvisor. "We're in the middle of ... one in California by Zoom right now and I'm about to get on a plane to New Orleans for one that starts on Monday," he said. "UBS is not settling these cases" for the most part, he added.

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