

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Bret D. Pearlman
Marion F. Pearlman,
as Trustee of the Bret D. Pearlman 2005 Long
Term Trust

Case Number: 19-02681

vs.

Respondent

UBS Financial Services Inc.

Hearing Site: New York, New York

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.

REPRESENTATION OF PARTIES

For Claimants Bret D. Pearlman, and Marion F. Pearlman, as Trustee of the Bret D. Pearlman 2005 Long Term Trust (collectively, “Claimants”): Jessica A. Murzyn, Esq., John G. Rich, Esq., and Ross B. Intelisano, Esq., Rich, Intelisano & Katz, LLP, New York, New York.

For Respondent UBS Financial Services Inc. (“Respondent”): Kuan Huang, Esq., Latham & Watkins LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: September 5, 2019.

Bret D. Pearlman, and Marion F. Pearlman, as Trustee of the Bret D. Pearlman 2005 Long Term Trust signed the Submission Agreement: September 10, 2019.

Statement of Answer filed by Respondent on or about: December 16, 2019.

UBS Financial Services Inc. signed the Submission Agreement: September 16, 2019.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: fraud; misrepresentation; unsuitability; breach of fiduciary duty; and breach of contract; respondeat superior; control person liability; and failure to supervise. The causes of action relate to UBS' Yield Enhancement Strategy ("YES") options strategy.

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: rescission of all trading losses, mandates, and disgorgement of all fees received by Respondent; compensatory damages of approximately \$7,000,000.00; recovery of pre- and post-award interest, costs, expenses, attorneys' fees, expert fees, and forum fees; and punitive damages.

In the Statement of Answer, Respondent requested: that the Statement of Claim be dismissed in its entirety and with prejudice; expungement on behalf of Unnamed Party William Montgomery Cerf, and any and all associated persons who may be affected by this claim, of all references to this matter from their Central Registration Depository ("CRD") registration records; and for such other and further relief as deemed 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.

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 Bret D. Pearlman the sum of \$2,600,000.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant Marion F. Pearlman, as Trustee of the Bret D. Pearlman 2005 Long Term Trust the sum of \$600,000.00 in compensatory damages.
3. Respondent is liable for and shall pay to Claimants the sum of \$750.00 to reimburse Claimants for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services

4. Respondent's request for expungement on behalf of Unnamed Party William Montgomery Cerf (CRD Number 2269462) Occurrence Number 2048461 from registration records maintained by the CRD is denied with prejudice.
5. 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	=\$ 2,250.00
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**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 persons 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	=\$ 3,600.00
Member Process Fee	=\$ 6,800.00

Late Pre-Hearing Cancellation Fees

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

July 14, 2020, cancellation requested by the parties	=\$ 100.00
November 23, 2020, cancellation requested by the parties	=\$ 300.00

Total Late Pre-Hearing Cancellation Fees	=\$ 400.00
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The Panel has assessed the total late pre-hearing cancellation fees to Respondent.

Postponement Fees

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

July 12-13, 18-20, 25-27, 2022, postponement requested by the parties	=\$ 1,500.00
July 18-21 and August 1-4, 2023, postponement requested by the parties	Waived

Total Postponement Fees	=\$ 1,500.00
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The Panel has assessed the total postponement fees to Respondent.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

July 12-13, 18-20, 25-27, 2022, postponement requested by the parties	= \$	1,200.00
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Total Last-Minute Cancellation Fees	= \$	1,200.00

The Panel has assessed the total last-minute cancellation fees to Respondent.

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 a single Arbitrator @ \$450.00/session	= \$	450.00
Pre-Hearing Conference: December 18, 2020	1 session	
Three (3) pre-hearing sessions with the Panel @ \$1,500.00/session	= \$	4,500.00
Pre-Hearing Conferences: December 5, 2019	1 session	
February 22, 2021	1 session	
October 20, 2022	1 session	
Sixteen (16) hearing sessions @ \$1,500.00/session	= \$	24,000.00
Hearings: September 27, 2023	2 sessions	
September 28, 2023	2 sessions	
September 29, 2023	2 sessions	
October 2, 2023	2 sessions	
October 3, 2023	2 sessions	
October 4, 2023	2 sessions	
October 5, 2023	2 sessions	
October 13, 2023	2 sessions	
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Total Hearing Session Fees	= \$	28,950.00

The Panel has assessed the total hearing session fees to Respondent.

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

ARBITRATION PANEL

Ira A. Auerbach	-	Public Arbitrator, Presiding Chairperson
Sandra J. Mullings	-	Public Arbitrator
Edward Francis Watt	-	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

Ira A. Auerbach

Ira A. Auerbach
Public Arbitrator, Presiding Chairperson

10/24/2023

Signature Date

Sandra J. Mullings

Sandra J. Mullings
Public Arbitrator

10/24/2023

Signature Date

Edward Francis Watt

Edward Francis Watt
Public Arbitrator

10/24/2023

Signature Date

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October 27, 2023

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