

**Award**  
**FINRA Office of Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimants

Juan Medero-Fernandez, Individually and as  
Beneficiary of the Juan Medero Fernandez  
Retirement Plan  
Maria S. Navedo

Case Number: 17-00592

vs.

Respondents

UBS Financial Services Inc.  
UBS Financial Services Inc. of Puerto Rico

Hearing Site: San Juan, Puerto Rico

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Nature of the Dispute: Customers vs. Members

This case was decided by an all-public panel.

**REPRESENTATION OF PARTIES**

For Claimants Juan Medero-Fernandez, Individually ("Medero") and as Beneficiary of the Juan Medero Fernandez Retirement Plan ("Retirement Plan") and Maria S. Navedo ("Navedo"): Jeffrey Erez, Esq. and Eliezer Aldarondo, Esq., Erez Law, PLLC, Miami, Florida.

For Respondents UBS Financial Services Inc. ("UBS") and UBS Financial Services Inc. of Puerto Rico ("UBSPR"): Bradley B. Rounsaville, Esq., Jaime H. Scivley, Esq. and Sarah K. Yates, Esq., Bressler, Amery & Ross, P.C., Birmingham, Alabama.

**CASE INFORMATION**

Statement of Claim filed on or about: March 7, 2017.

Juan Medero-Fernandez, Individually and as Beneficiary of the Juan Medero Fernandez Retirement Plan, signed the Submission Agreement: March 6, 2017.

Maria S. Navedo signed the Submission Agreement: March 6, 2017.

Statement of Answer filed by Respondents on or about: June 14, 2017.

UBS Financial Services Inc. signed the Submission Agreement: March 13, 2017.

UBS Financial Services Inc. of Puerto Rico signed the Submission Agreement: June 14, 2017.

**CASE SUMMARY**

Claimants Medero and Navedo asserted the following causes of action: breach of fiduciary duty; negligence; negligent supervision; fraud; breach of contract; violation of

the Puerto Rico Uniform Securities Act; and violation of Section 10(b) of the Securities Exchange Act and Rule 10b-5 of the Securities and Exchange Commission.

Claimant Retirement Plan asserted the following causes of action: violation of the Employee Retirement Income Security Act; breach of fiduciary duty; negligence; negligent supervision; fraud; breach of contract; violation of the Puerto Rico Uniform Securities Act; and violation of Section 10(b) of the Securities Exchange Act and Rule 10b-5 of the Securities and Exchange Commission.

The causes of action relate to Claimants' investments in Puerto Rican closed-end mutual funds and Puerto Rican bonds.

Unless specifically admitted in the Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimants requested: compensatory damages between \$1,000,000.00 and \$5,000,000.00; rescission; punitive damages; interest; costs; attorneys' fees; and such other and further relief deemed just and proper.

In the Statement of Answer, Respondents requested that: Claimants take nothing by their claims and that their claims be dismissed in their entirety, with prejudice; and all FINRA fees be assessed against Claimants.

At the close of the hearing, Claimants requested: \$3,478,910.00 in compensatory damages.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable for and shall pay to Claimants the sum of \$1,880,000.00 in compensatory damages.
2. Other than forum fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter.

3. Any and all claims for relief not specifically addressed herein, including Claimants' requests for punitive damages and attorneys' fees, are denied.

### **FEES**

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

#### **Filing Fees**

FINRA Office of Dispute Resolution 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 parties, Respondents UBS and UBSPR are assessed the following:

<u>For UBS</u>	
Member Surcharge	= \$ 3,025.00
Member Process Fee	= \$ 6,175.00
 <u>For UBSPR</u>	
Member Surcharge	= \$ 3,025.00
Member Process Fee	= \$ 6,175.00

#### **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 arbitrator(s), including a pre-hearing conference with the arbitrator(s) that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) pre-hearing sessions with the Panel @ \$1,400.00/session	= \$ 4,200.00
Pre-hearing conferences:	
June 20, 2017	1 session
January 8, 2018	1 session
February 21, 2018	1 session
Nineteen (19) hearing sessions @ \$1,400.00/session	= \$26,600.00
Hearing Dates:	
March 13, 2018	2 sessions
March 14, 2018	2 sessions
March 15, 2018	2 sessions
March 16, 2018	3 sessions
March 17, 2018	2 sessions
March 21, 2018	2 sessions
March 22, 2018	3 sessions
March 23, 2018	3 sessions

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Total Hearing Session Fees =\$30,800.00

The Panel has assessed \$14,700.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$16,100.00 of the hearing session fees jointly and severally to Respondents.


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

**ARBITRATION PANEL**

Robert J. Gregory	-	Public Arbitrator, Presiding Chairperson
Alan C. Granath	-	Public Arbitrator
Ronald L. Goss	-	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**

  
\_\_\_\_\_  
Robert J. Gregory  
Public Arbitrator, Presiding Chairperson

3 - 28 - 2018  
Signature Date

\_\_\_\_\_  
Alan C. Granath  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Ronald L. Goss  
Public Arbitrator

\_\_\_\_\_  
Signature Date

March 29, 2018  
Date of Service (For FINRA Office of Dispute Resolution office use only)

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