

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimants

Jacobo and Raquel Bender, individually and as TTEEs of the Fideicomiso Jr. Bender-1, Joel Bender, Sara Bender, Alon Shaked, Lorraine Shaked, individually and as TTEE of the Shaked Bender Family Trust and the Shaked Bender Children Trust, YY Children LLC, YY Family LLC, Salomon Abadi, Elvira Corkidi, individually and as TTEE of the Abadi Corkidi Family Trust, AC PR Investments LLC and Caribbean Retail Ventures, Inc.

Case Number: 16-00715

vs.

Respondents

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

Hearing Sites: San Juan, Puerto Rico
and Miami, Florida

Nature of the Dispute: Customers vs. Members

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimants Jacobo and Raquel Bender, individually and as TTEEs of the Fideicomiso Jr. Bender-1, Joel Bender, Sara Bender, Alon Shaked, Lorraine Shaked, individually and as TTEE of the Shaked Bender Family Trust and the Shaked Bender Children Trust, YY Children LLC, YY Family LLC, Salomon Abadi, Elvira Corkidi, individually and as TTEE of the Abadi Corkidi Family Trust, AC PR Investments LLC, and Caribbean Retail Ventures, Inc.: Jeffrey Erez, Esq., Sonn & Erez, Miami, Florida and Eliezer Aldarondo-Lopez, Esq., Aldarondo & Lopez-Bras, PSC, Guaynabo, Puerto Rico.

For Respondent UBS Financial Services, Inc. ("UBS") and UBS Financial Services Inc. of Puerto Rico ("UBSPR"): Peter Fruin, Esq., Maynard Cooper & Gale, P.C., Birmingham, Alabama, Wes Holston, Esq., Bressler, Amery & Ross, P.C., Fort Lauderdale, Florida, Leo Peraza, Esq., Bressler, Amery & Ross, P.C., Miami, Florida, and Guillermo J. Bobonis, Esq., Bobonis, Bobonis & Rodriguez Poventud, San Juan, Puerto Rico.

CASE INFORMATION

Statement of Claim filed on or about: March 11, 2016.

Amended Statement of Claim filed on or about: March 29, 2016.

Jacobo Bender, individually and as TTEE of the Fideicomiso Jr. Bender-1, signed the Submission Agreement: March 8, 2016.

Raquel Bender, individually and as TTEE of the Fideicomiso Jr. Bender-1, signed the Submission Agreement: March 8, 2016.

Salmon Abadi, individually and in his capacities as Managing Member of AC PR Investments LLC and President of Caribbean Retail Ventures, Inc., signed the Submission Agreement: March 8, 2016.

Elvira Corkidi, individually and in her capacities as TTEE of the Abadi Corkidi Family Trust and Managing Member of AC PR Investments LLC, signed the Submission Agreement: March 8, 2016.

Alon Shaked signed the Submission Agreement: March 9, 2016.

Lorraine Shaked, individually and in her capacities as TTEE of the Shaked Bender Family Trust and the Shaked Bender Children Trust, and as Managing Member of YY Children LLC and YY Family LLC, signed the Submission Agreement: March 9, 2016.

Joel Bender signed the Submission Agreement: March 10, 2016.

Sara Bender signed the Submission Agreement: March 10, 2016.

Statement of Answer filed by Respondents on or about: July 7, 2016.

UBS Financial Services Inc. signed the Submission Agreement: June 28, 2016.

UBS Financial Services Inc. of Puerto Rico signed the Submission Agreement: July 6, 2016.

CASE SUMMARY

Claimants 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. The causes of action relate to, among other things, Claimants' investments in Puerto Rico bonds (including new issues underwritten by Respondents), as well as Respondents' proprietary closed-end funds invested predominantly in Puerto Rico 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 and the Amended Statement of Claim, Claimants requested: compensatory damages in the range of \$1,000,000.00 to \$5,000,000.00; rescission; punitive damages; interest; costs; attorneys' fees; and such other and further relief deemed just and proper by the Panel.

In the Statement of Answer, Respondents requested: denial of the Statement of Claim, as amended, in its entirety; assessment of all FINRA fees and costs to Claimants; expungement of all references to this claim from the Central Registration Depository ("CRD") records of any registered representative in which this case was reported; and such other and further relief deemed just and equitable by the Panel.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about May 4, 2018, Respondents filed a Motion to Exclude Regulatory Settlements and Arbitration Awards from Prior and Unrelated Arbitrations in which they asserted, among other things, that settlements made in connection with regulatory investigations and unrelated arbitration awards are irrelevant and inadmissible. In their May 10, 2018 Opposition, Claimants asserted, among other things, that: (1) FINRA's and the SEC's findings of fact, as well as other FINRA arbitration awards, clearly "relate to the case" because they focus on the same fraud and other illicit conduct at issue; FINRA has a longstanding policy of supporting the "liberal introduction of evidence" in arbitrations; prior judgments are unquestionably admissible under the Federal Rules of Evidence; Respondents' Motion relies on inapplicable, outdated and non-controlling case law that has no precedential value in this arbitration; and Respondents' reliance on an administrative law decision addressing a completely unrelated SEC action is sorely misplaced. In their May 15, 2018 Reply, Respondents asserted, among other things, that: (1) motions in limine are entirely appropriate; (2) regulatory settlements are inadmissible under the Federal Rules of Evidence; (3) regulatory settlements are inadmissible even if they relate to Claimants' allegations; (4) Respondents' reliance on the administrative law decision is proper; and (5) arbitration awards are not relevant. At the outset of the evidentiary hearing, the Panel heard oral arguments from the parties and denied the Motion.

On or about May 18, 2018, Respondents filed a Motion to Exclude Expert Testimony or, in the Alternative, to Compel in which they asserted, among other things, that unless they are provided with Claimants' unredacted account statements and other information given to the expert witness in preparation of his report, the expert witness should not be permitted to testify and his report should be excluded. Claimants did not file a written response to the Motion. At the outset of the evidentiary hearing, the Panel heard oral arguments from the parties and denied the Motion.

At the conclusion of Claimants' case-in-chief, Respondents moved to dismiss the claims of Claimants Jacobo and Raquel Bender (in their individual capacities), YY Family LLC, Salomon Abadi, Elvira Corkidi and Abadi Corkidi Family Trust. Specifically, Respondents requested that the Panel dismiss all claims asserted by these Claimants based upon the expiration of the Statute of Limitations, to which Claimants objected. The Panel granted the Motion in part and denied it in part. Specifically, the Panel dismissed with prejudice all claims asserted by Claimants YY Family LLC, Salomon Abadi, Elvira Corkidi and Abadi Corkidi Family Trust for violation of the Puerto Rico Uniform Securities Act, and denied all of Respondents' other remaining dismissal requests.

All of the evidentiary hearings were held in San Juan, Puerto Rico, with the exception of the June 11, 12 and 13, 2018, hearings, which were held in Miami, Florida.

Notwithstanding the presence of a court reporter at the evidentiary hearings, the parties stated on the record that FINRA's recording of the evidentiary hearings is the official record in this matter, to which the Panel agreed.

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 \$4,200,000.00 in compensatory damages, plus post-award interest (if applicable) pursuant to the provisions of the Code of Arbitration Procedure (the "Code").
2. Respondents are jointly and severally liable for and shall pay to Claimants the sum of \$85,847.00 in costs.
3. Respondents are jointly and severally liable for and shall reimburse Claimants the sum of \$600.00, representing the non-refundable portion of the initial claim filing fee previously paid by Claimants to FINRA Office of Dispute Resolution.
4. A court reporter was present at the evidentiary hearings. Two different court reporting service providers were used – one in San Juan, Puerto Rico and one in Miami, Florida. Claimants and Respondents agreed that each side would be responsible for 50% of the court reporter's appearance fee and each would pay their own share directly to the applicable court reporting service provider. The Panel has now determined to assess Claimants' 50% share of the appearance fee jointly and severally to Respondents. Therefore, Respondents shall pay the entire appearance fee directly to the applicable court reporting service provider upon receipt of the final invoice from that provider. Additionally, if any party wishes to obtain a transcription of all or part of the record, that party may obtain same from the court reporting service providers at their own expense.
5. Respondents' request for expungement of all references to this matter from the CRD records of any registered representative in which this case was reported is denied.
6. Any and all claims for relief not specifically addressed herein, including Claimants' requests for attorneys' fees and punitive damages fees, are denied.

FEES

Pursuant to the Code, 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 each assessed the following:

UBS

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

UBSPR

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

Postponement Fees

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

June 5, 2018, postponement by Respondents = \$ 1,400.00

Total Postponement Fees = \$ 1,400.00

The Panel has assessed the total \$1,400.00 postponement fee jointly and severally to Respondents.

Last Minute Cancellation Fees

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

June 5, 2018, postponement by Respondents = \$ 1,800.00

Total Last Minute Cancellation Fees = \$ 1,800.00

The Panel has assessed the total \$1,800.00 last minute cancellation fee jointly and severally to Respondents.

Discovery-Related Motion Fee

Fees apply for each decision rendered on a discovery-related motion.

Two (2) decisions on discovery-related motions on the papers
with one (1) arbitrator @ \$200.00/decision = \$ 400.00

Respondents submitted two (2) discovery-related motions

Total Discovery-Related Motion Fees = \$ 400.00

The Panel has assessed the entire \$400.00 of the discovery-related motion fees jointly and severally to Respondents.

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:

One (1) pre-hearing session with the Panel @ \$1,400.00/session = \$ 1,400.00
Pre-hearing conference: August 22, 2016 1 session

Thirty-three (33) hearing sessions @ \$1,400.00/session = \$46,200.00

Hearing Dates:

May 21, 2018	2 sessions
May 22, 2018	2 sessions
May 23, 2018	2 sessions
May 24, 2018	3 sessions
May 25, 2018	1 sessions
May 29, 2018	2 sessions
May 30, 2018	3 sessions
May 31, 2018	3 sessions
June 1, 2018	2 sessions
June 4, 2018	3 sessions
June 6, 2018	3 sessions
June 11, 2018	3 sessions
June 12, 2018	3 sessions
June 13, 2018	1 session

Total Hearing Session Fees = \$47,600.00

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

The Panel has assessed \$46,900.00 of the hearing session fees jointly and severally to Respondents.

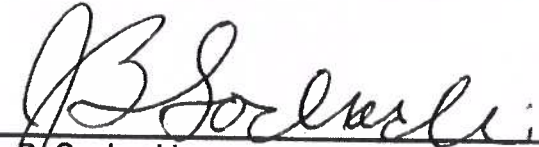
All balances are payable to FINRA Office of Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

John B. Sochacki	-	Public Arbitrator, Presiding Chairperson
Ron Pekoe	-	Public Arbitrator
Don G. Miller	-	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



John B. Sochacki
Public Arbitrator, Presiding Chairperson

JUN 22, 2018
Signature Date

Ron Pekoe
Public Arbitrator

Signature Date

Don G. Miller
Public Arbitrator

Signature Date

6/22/18

Date of Service (For FINRA Office of Dispute Resolution office use only)

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Public Arbitrator

6/22/18

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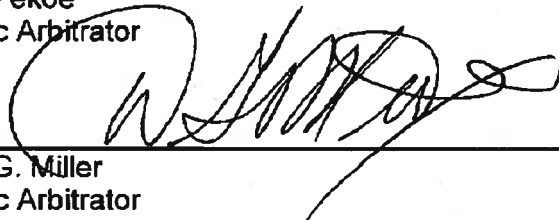
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Ron Pekoe
Public Arbitrator



Signature Date

6/22/18

Don G. Miller
Public Arbitrator

Signature Date

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