

**Award
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Claimant/Counter-Respondent
Edward Graham Dulin, Jr.

Case Number: 12-00759

vs.

Respondent/Counter-Claimant
UBS Financial Services Inc.

Hearing Site: Phoenix, Arizona

Nature of the Disputes: Associated Person vs. Member; and
Member vs. Associated Person

REPRESENTATION OF PARTIES

For Claimant/Counter-Respondent Edward Graham Dulin, Jr. ("Claimant"): Rosemary J. Shockman, Esq., Shockman Law Office, Phoenix, Arizona, and Seth E. Lipner, Esq., Deutsch & Lipner, Garden City, New York.

For Respondent/Counter-Claimant UBS Financial Services Inc. ("Respondent"): Melanie Ronen, Esq., Keesal, Young & Logan, Long Beach, California.

CASE INFORMATION

Statement of Claim filed on or about: February 28, 2012.

Claimant signed the Submission Agreement: February 28, 2012.

Statement of Answer and Counterclaim filed by Respondent on or about: May 21, 2012.

Statement of Answer to Counterclaim filed by Claimant on or about: June 25, 2012.

Amended Counterclaim filed by Respondent on or about: August 24, 2012.

Statement of Answer to Amended Counterclaim filed by Claimant on or about:
September 24, 2012.

Respondent signed the Submission Agreement: May 21, 2012.

CASE SUMMARY

Claimant asserted the following causes of action: Intentional Interference with Business Expectancy, Injurious Falsehood, Breach of Contract, and Violation of Arizona Securities Statutes and Regulations. The causes of action relate to Claimant's sale of Lehman Brothers Structured Products, including but not limited to Lehman Brothers 100% Principal Protected Notes ("PPNs"), and Respondent's disclosure of customer complaints to Claimant's Central Registration Depository records, forms U4 and U5.

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

In the Counterclaim and Amended Counterclaim, Respondent asserted a cause of action for contribution. The cause of action relates to Claimant's sale of Lehman Brothers Structured Products and Respondent's settlements with Claimant's former customers.

Unless specifically admitted in his Answers, Claimant denied the allegations made in the Counterclaim and Amended Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested that the Panel award him damages for the diminution in the value of his career, and the damage to his business that has not yet been finally determined, in an amount no less than \$6,000,000.00. Claimant further requested an award of punitive damages, pre-judgment interest, attorneys' fees and costs, including expert witness costs and fees. Claimant asked the Panel assess the arbitration fees against Respondent. Claimant also asked the Panel enter an order expunging all claims involving the Lehman Brothers Structured Products from his record.

In the Statement of Answer and Counterclaim, Respondent requested:

1. Claimant take nothing by his Statement of Claim and that this matter be dismissed in its entirety;
2. Respondent be awarded all or part of the approximately \$3,917,270.00 that Respondent paid in resolution of complaints lodged by customers formerly serviced by Claimant at UBS Financial Services Inc.;
3. Respondent be awarded costs of suit herein; and
4. Such relief as the Panel deems just and proper.

In the Statement of Answer to the Counterclaim, Claimant requested the Counterclaim be dismissed and Claimant be awarded his attorneys' fees and costs for defense of the Counterclaim.

In the Amended Counterclaim, Respondent requested:

1. Claimant take nothing by his Statement of Claim and that this matter be dismissed in its entirety; and
2. Respondent be awarded all of the approximately \$3,938,270.00 that Respondent has already paid in resolution of complaints lodged by customers formerly serviced by Claimant at UBS Financial Services Inc.

In the Statement of Answer to the Amended Counterclaim, Claimant requested the Amended Counterclaim be dismissed and Claimant be awarded his attorneys' fees and costs for defense of the Counterclaim and Amended Counterclaim.

At the close of the hearing, Claimant requested approximately \$30,000,000.00 in compensatory damages, punitive damages as determined by the Panel, \$1,000,000.00 in attorneys' fees, and approximately \$85,000.00 in costs.

OTHER ISSUES CONSIDERED AND DECIDED

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

During the initial pre-hearing conference, the Panel approved the filing of Respondent's Amended Counterclaim.

During the recorded evidentiary hearing, the Panel heard and considered Claimant's request for expungement. The Panel reviewed the settlement documents, considered the amounts paid to any party, and considered any other relevant terms and conditions of the settlements executed in the customer complaints and/or arbitrations at issue in Claimant's expungement request. The Panel determined that no party conditioned the settlements upon agreement not to oppose a request for expungement. The Panel also considered and relied upon documentary evidence, thousands of pages of exhibits submitted at the hearing, Claimant's BrokerCheck report, and witness testimony.

The parties 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 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 \$4,000,000.00 in compensatory damages. The Panel is also recommending expungement as detailed below. If the expungement recommendation is not upheld, then compensatory damages are doubled to a total of \$8,000,000.00. If this doubling occurs, then Claimant shall not be required to share any of this with his attorneys, as they will not be entitled to any of the second \$4,000,000.00. There are two components to the compensatory damages. First is the loss of past income, and second, damage to Claimant's name and reputation. The second \$4,000,000.00 would compensate Claimant partially for future lost income as a result of his record remaining besmirched.
2. Respondent is liable for and shall pay to Claimant \$250,000.00 in attorneys' fees pursuant to A.R.S. §12-341.01.
3. Respondent is liable for and shall pay to Claimant \$85,000.00 in costs.

4. Respondent is liable for and shall pay to Claimant \$1,000,000.00 in punitive damages for injurious falsehoods and omissions by Respondent. It is the consensus of the Panel that the UBS Structured Products Department in Weehawken, New Jersey, deliberately prevented the distribution of material information about Lehman Brothers sinking financial condition and continued to recommend the sale of Lehman Brothers structured products despite clear evidence of the company's rapid decline. Thus, Respondent consciously pursued conduct creating substantial risk of harm to Claimant and other financial advisors.
5. Respondent is liable for and shall pay to Claimant \$600.00 as reimbursement for the non-refundable portion of the initial claim filing fee previously paid by Claimant to FINRA.
6. The Panel recommends the expungement of all references to the following disclosures from Claimant Edward Graham Dulin, Jr.'s (CRD # 2592818) registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to Notice to Members 04-16, Claimant Edward Graham Dulin, Jr. must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

The Panel recommends the expungement of all references to the following customer complaints first filed on the date noted, by customers with the following initials:

07/19/2010 A&CR	06/18/2010 RB	11/05/2010 LW
11/18/2010 AW	11/18/2010 RD	11/15/2010 BM
12/08/2010 WC	11/11/2010 PH	01/06/2012 DD&NR et. al.
06/03/2010 AS	06/04/2010 DH	06/03/2010 JRD
06/03/2010 W&VH	08/30/2010 AH&JK	10/25/2010 WG
10/25/2010 SH	10/25/2010 W&JM	09/28/2010 CB
08/09/2010 ML	10/25/10 SC	08/11/2010 R&DW
11/11/2010 JLC	07/28/2011 S&RS	10/25/2010 RF
04/05/2013 FD&JD	10/11/2011 TAS	07/28/2011 KM
11/23/2011 SZ	07/14/2011 RW	07/28/2011 D&MS
06/22/2011 A&SB	07/28/2011 R&KF	11/18/2010 G&TH
03/10/2009 PJH	03/25/2009 RH	03/31/2010 FD&JD
06/03/2010 SS	08/30/2010 CL	03/04/2013 HC

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 13805 of the Code, as for the customer complaint 03/04/2013 HC, the Panel makes the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

Pursuant to Rule 13805 of the Code, as for all other customer complaints detailed above, except for 03/04/2013 HC, the Panel makes the following Rule 2080 affirmative findings of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and

The claim, allegation, or information is false.

The Panel has made the above Rule 2080 findings based on the following reasons:

As for the customer complaint 03/04/2013 HC, the Panel finds the disclosure to be erroneous on its face. CRD has noted it was disclosed in error.

As for the other customer complaints detailed above, except 03/04/2013 HC, the Panel finds the statements in Claimant's U4 and U5 records are false and misleading because any sales practice violations were caused by Respondent, not Claimant. Specifically, the Panel finds that the UBS Structured Products Department continued to tout Lehman Brothers structured products despite (1) mounting evidence that Lehman Brothers' creditworthiness was crumbling, and (2) increasingly pointed concern among top UBS executives in the U.S., London and Zurich that the sale of Lehman Brothers products should be suspended. The head of UBS Structured Products Department in Weehawken, New Jersey told his staff not to advise the Financial Advisors about bad Lehman Brothers news because of his fear that they (the Financial Advisors) might misinterpret it.

To the extent the Panel has missed any information required for this expungement recommendation, it is the Panel's intention to expunge all traces of the above referenced customer complaints Respondent reported on Claimant's forms U4 and U5.

7. Respondent's Counterclaim is denied in its entirety.
8. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing Fee	= \$ 1,800.00
Counterclaim Filing Fee	= \$ 3,200.00

**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 a party, UBS Financial Services Inc. is assessed the following:

Member Surcharge	= \$ 3,350.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 5,500.00

Discovery-Related Motion Fees

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

One (1) Decision on a discovery-related motion on the papers
with three arbitrators @ \$600.00 = \$600.00
Claimant submitted one discovery-related motion

Total Discovery-Related Motion Fees	= \$600.00
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The Panel has assessed \$600.00 of the discovery-related motion 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 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 @ \$1,200.00/session	= \$3,600.00
Pre-hearing conferences: August 2, 2012	1 session
September 24, 2012	1 session
September 5, 2013	1 session

Forty-Two (42) Hearing sessions @ \$1,200.00/session	= \$50,400.00
Hearing Dates:	
September 16, 2013	2 sessions
September 17, 2013	2 sessions
September 18, 2013	2 sessions
September 19, 2013	2 sessions
September 20, 2013	2 sessions
September 23, 2013	2 sessions
September 24, 2013	2 sessions
September 25, 2013	2 sessions
September 26, 2013	2 sessions
September 27, 2013	2 sessions
October 7, 2013	2 sessions
October 8, 2013	2 sessions
October 9, 2013	2 sessions
January 13, 2014	2 sessions
January 14, 2014	2 sessions
January 15, 2014	2 sessions
January 16, 2014	2 sessions
January 17, 2014	2 sessions
February 3, 2014	2 sessions
February 4, 2014	1 session
February 5, 2014	3 sessions

Total Hearing Session Fees	= \$54,000.00
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The Panel has assessed \$54,000.00 of the hearing session fees to Respondent.

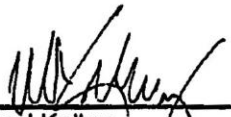
All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

W. Michael Kelley	-	Public Arbitrator, Presiding Chairperson
Richard M. Weinroth	-	Public Arbitrator
Peter Joseph Kalman	-	Non-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



W. Michael Kelley
Public Arbitrator, Presiding Chairperson



Signature Date

Peter Joseph Kalman
Non-Public Arbitrator

Signature Date

Concurring in Part, Dissenting in Part Arbitrator's Signature

I respectfully dissent from the award of punitive damages in this matter. After 21 days of hearings, almost 1,000 exhibits (not including sub-exhibits) consisting of tens of thousands of pages in almost three dozen large binders and bound volumes, numerous witnesses of varying credibility, the arguments of experienced and well-prepared counsel for the parties, and extensive post-hearing review of documents and deliberations by the Panel, I believe that the overwhelming weight of the evidence supports the Panel's findings on liability, expungement, compensatory damages, costs and certain attorneys' fees. I further agree that if a court does not confirm the Panel's finding in favor of expungement, then additional damages should be awarded to Claimant in the amount determined by the Panel to compensate Claimant for future damages which almost certainly would arise from non-expungement, and that such an award should not be subject to additional contingent attorneys' fees to avoid creating perverse incentives for Claimant's counsel and to prevent unjust enrichment to such counsel from damages which would arise only if a court does not grant expungement (although counsel would not be prohibited, in my judgment, from charging an appropriate hourly rate to seek to obtain any necessary court approval of expungement). I also agree that Respondent is not entitled to damages for its counterclaim. However, in my judgment, the weight of the evidence was that Respondent's conduct was not sufficiently egregious with respect to Claimant to support an award of punitive damages.

ARBITRATION PANEL

W. Michael Kelley	-	Public Arbitrator, Presiding Chairperson
Richard M. Weinroth	-	Public Arbitrator
Peter Joseph Kalman	-	Non-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.

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Public Arbitrator, Presiding Chairperson

Signature Date

Peter Joseph Kalman
Non-Public Arbitrator

Signature Date

Concurring in Part, Dissenting in Part Arbitrator's Signature

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Richard M. Weinroth
Public Arbitrator

April 4, 2014
Signature Date

April 4, 2014
Date of Service (For FINRA Dispute Resolution office use only)