

Award
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Claimants

David Turza, Individually, and Erin Turza as
Custodian for Samantha Turza and Lauren Turza

Case Number: 13-01981

vs.

Respondents

UBS Financial Services Inc.,
Wells Fargo Advisors, LLC, and
Richard Allen Ceffalio, Jr.

Hearing Site: Chicago, Illinois

Nature of the Dispute: Customers vs. Members and Associated Person

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimant David Turza ("Turza"): Laurence M. Landsman, Esq., Block & Landsman, Chicago, Illinois.

For Claimant Erin Turza as Custodian for Samantha Turza and Lauren Turza: Nicholas P. Iavarone, Esq., The Iavarone Firm, Chicago, Illinois.

For Respondent UBS Financial Services Inc. ("UBS"): Angela A. Turiano, Esq., Bressler, Amery & Ross, New York, New York.

For Respondent Wells Fargo Advisors, LLC ("Wells Fargo"): Michael Naccarato, Esq., Wells Fargo Advisors, LLC, St. Louis, Missouri.

For Respondent Richard Allen Ceffalio, Jr. ("Ceffalio"): Stephany D. McLaughlin, Esq., Eccleston Law Offices, P.C., Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: July 5, 2013.

David Turza signed the Submission Agreement: July 5, 2013.

Erin Turza as Custodian for Samantha Turza and Lauren Turza signed the Submission Agreement: July 5, 2013.

Statement of Answer filed by UBS on or about: September 10, 2013.

Statement of Answer filed by Wells Fargo on or about: September 17, 2013.

Statement of Answer filed by Ceffalio on or about: September 17, 2013.

UBS signed the Submission Agreement: July 23, 2013.

Wells Fargo signed the Submission Agreement: September 17, 2013.

Ceffalio signed the Submission Agreement: September 11, 2013.

CASE SUMMARY

Claimants asserted the following causes of action: violation of FINRA Rules 2010 and 2020; violation of the Illinois Consumer Fraud Act; violation of the Illinois Securities Law; negligence; failure to supervise; and control person liability and respondeat superior.

Unless specifically admitted in their Answers, each Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses. Ceffalio also requested that all references to this claim be expunged from his registration records maintained by the Central Registration Depository ("CRD").

RELIEF REQUESTED

In the Statement of Claim, Claimants requested:

Compensatory Damages	\$700,000.00
Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified

In its Answer, UBS requested that the Statement of Claim be dismissed in its entirety, that it be awarded costs, and other further relief as may be just and proper.

In its Answer, Wells Fargo requested that the Statement of Claim be dismissed in its entirety with prejudice, that it be awarded costs and other further relief as deemed just and proper, and that all references to this arbitration be expunged from Respondent Ceffalio's registration records maintained by the CRD.

In his Answer, Ceffalio requested that the Statement of Claim be dismissed in its entirety, that he be awarded attorneys' fees and costs, and that all references to this arbitration be expunged from his registration records maintained by the CRD.

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 January 6, 2015, the parties notified FINRA Dispute Resolution that they reached a settlement in this matter, but requested that the record remain open for the purpose of Ceffalio's expungement request.

On or about April 1, 2015, Ceffalio filed a Motion for Expungement. No responses were filed.

The Panel conducted a recorded, in-person hearing on June 22, 2015, so the parties could present oral arguments and evidence on Ceffalio's request for expungement. Claimants, UBS, and Wells Fargo did not participate in the hearing.

The Panel reviewed the settlement documents in this matter, considered the amounts paid to any party, and considered any other relevant terms and conditions of the settlement. The Panel determined that Ceffalio did not contribute to the settlement and that the settlement agreement was not conditioned upon any customer's agreement not to oppose expungement.

The Panel relied upon the exhibits presented by TIAA-CREF and Ceffalio at the expungement hearing, the testimony of Ceffalio, and the testimony of James H. Cox IV in making its recommendation on the expungement request.

On June 22, 2015, the Panel requested that Respondent Ceffalio file a post-hearing submission containing his BrokerCheck® Report. Ceffalio submitted his BrokerCheck® Report on June 23, 2015, for the Panel's review.

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 the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of all references to the above-captioned arbitration from Respondent Richard A. Ceffalio, Jr.'s registration records maintained by the CRD, with the understanding that pursuant to Notice to Members 04-16, Respondent Richard A. Ceffalio, Jr. must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

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 12805 of the Code, the arbitration panel has made the following Rule 2080 affirmative findings of fact:

- The claim, allegation, or information is false.

The arbitration panel has made the above Rule 2080 finding based on the following reasons:

- In his Pre-Hearing Brief, Turza stated that the transactions for which damages were being sought in this arbitration began on March 13, 2012, when Ceffalio recommended that Turza invest \$775,000 in a single leveraged silver exchange traded fund ("ETF"). He further claimed that Ceffalio recommended that he invest the same speculative leveraged ETF in both of his minor daughters' accounts. However, through evidence and testimony, Ceffalio established that he was not liable for Turza's unsolicited purchases of the leveraged silver ETF, known as AGQ exchange-traded commodity funds

("AGQ"), since Turza ordered the purchases, executed them himself, and the broker exercised no discretion over Claimants' accounts.

Ceffalio's evidence demonstrated that Turza was a sophisticated investor, the accounts Claimants had with Ceffalio were all self-directed, the purchase of AGQ was solely Turza's idea, Turza instructed Ceffalio to make the purchase, and Ceffalio, as the Broker, did not have the discretion to do anything other than as he was instructed. Further, the evidence demonstrated that Ceffalio and two other brokerage firms warned Turza several times of the high risk involved with the purchase and recommended other alternatives with less risk and exposure. Despite the advice and warnings, Turza still purchased and maintained his position in the ETFs. Only after a year when significant losses were incurred did Turza complain.

Ceffalio's evidence demonstrated that Turza was not a "financially conservative" investor. Rather, it showed that Turza was a successful business person who had previous experience managing assets and investments, and, during relevant times, Turza exhibited speculative, calculated, high risk, aggressive investment behavior at UBS, Wells Fargo, and other investment firms. Ceffalio's evidence demonstrated that Claimants rejected all of Ceffalio's recommendations to take a conservative investment approach, to diversify and to reduce the risk exposure, and that Turza rejected similar recommendations of other financial professionals.

Claimants claim Ceffalio recommended the purchase of AGQ. However, the evidence contradicted that claim and showed that it was false. Ceffalio's evidence demonstrated that it was Turza who did research and got the idea to purchase AGQ from a friend. Turza directed Ceffalio to purchase AGQ as an investment strategy. Turza then rode these investments down and later sued the brokerage firms. Turza made only unilateral transactions in his accounts with Ceffalio. Although Ceffalio made recommendations for diversification or to hedge the risk, these recommendations were all rejected by Turza and all transactional decisions with Ceffalio were initiated and directed by Turza. When Ceffalio recommended that Turza not invest in AGQs, Turza told him what he wanted to trade. Turza rejected hedging or placing stop orders. When the investment initially experienced an unrealized gain, Turza did not complain to Ceffalio; he only did so after incurring significant losses.

All of Claimants' accounts were self-directed. Ceffalio testified he believed he had no authority to decline to execute a self-directed client order. When Ceffalio explained the risks and advised Turza not to put his entire account in one place, Turza told him, "it's my money and I'll do what I want." Turza further refused to put in a stop loss and chose the identical investments for his wife and minor children's accounts. Ceffalio testified he never recommended holding AGQ in Turza's accounts.

Furthermore, Ceffalio always maintained his innocence to the claims. Following Mediation, only the firms paid monies to settle. Ceffalio did not have to make any payments as part of this settlement, and Ceffalio stated his

current employer did not take any disciplinary action against him. Ceffalio suffered emotionally and financially. Ceffalio represented his legal fees and expenses to defend this claim were tremendous when compared to the \$1,600 in total commissions he earned from Turza trades at both firms.

The documentary evidence, coupled with the testimony of Ceffalio and his partner James H. Cox, support a recommendation for expungement because the allegations and claims in the statement of claim are false.

2. 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	= \$ 1,575.00
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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 person at the time of the events giving rise to the dispute. Accordingly, as parties, UBS Financial Services, Inc. and Wells Fargo Advisors, LLC are assessed the following:

<u>UBS Financial Services, Inc.:</u>	
Member Surcharge	= \$ 2,250.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 4,000.00
 <u>Wells Fargo Advisors, LLC:</u>	
Member Surcharge	= \$ 2,250.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

December 1-5, 8, 2014, adjournment by Respondents UBS and Ceffalio	= \$ 1,200.00
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The Panel has assessed \$1,200.00 of the Adjournment Fees to UBS Financial Services, Inc.

Discovery-Related Motion Fees

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

One (1) Decision on discovery-related motions on the papers with one (1) arbitrator @ \$200.00	= \$ 200.00
Claimants submitted (1) discovery-related motion	
Total Discovery-Related Motion Fees	= \$ 200.00

The Panel has assessed \$66.66 of the discovery-related motion fees jointly and severally to Claimants David Turza, Individually, and Erin Turza, as Custodian for Samantha Turza and Lauren Turza.

The Panel has assessed \$66.66 of the discovery-related motion fees to Respondent UBS Financial Services, Inc.

The Panel has assessed \$66.66 of the discovery-related motion fees to Respondent Wells Fargo Advisors, LLC.

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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450/session	= \$ 900.00
Pre-hearing conferences: August 8, 2014 1 session	
October 16, 2014 1 session	

Two (2) Pre-hearing sessions with the Panel @ \$1,200/session	= \$ 2,400.00
Pre-hearing conferences: January 9, 2014 1 session	
November 24, 2014 1 session	

One (1) Hearing session on expungement request @ \$1,200/session	= \$ 1,200.00
Hearing Date: June 22, 2015 1 session	
Total Hearing Session Fees	= \$ 4,500.00

The Panel has assessed \$1,100.00 of the hearing session fees jointly and severally to Claimants David Turza, Individually, and Erin Turza, as Custodian for Samantha Turza and Lauren Turza.

The Panel has assessed \$1,100.00 of the hearing session fees to Respondent UBS Financial Services, Inc.

The Panel has assessed \$1,100.00 of the hearing session fees to Respondent Wells Fargo Advisors, LLC.

The Panel has assessed \$1,200.00 of the hearing session fees to Respondent Richard A. Ceffalio, Jr.

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

ARBITRATION PANEL

Lynn Hirschfeld Brahini	-	Public Arbitrator, Presiding Chairperson
Jerome F. Crotty	-	Public Arbitrator
Raymond P. Buschmann	-	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

/s/ Lynn Hirschfeld Brahini
Lynn Hirschfeld Brahini
Public Arbitrator, Presiding Chairperson

7/11/2015
Signature Date

/s/ Jerome F. Crotty
Jerome F. Crotty
Public Arbitrator

7/11/2015
Signature Date

/s/ Raymond P. Buschmann
Raymond P. Buschmann
Public Arbitrator

7/11/2015
Signature Date

7/21/2015
Date of Service (For FINRA Dispute Resolution office use only)

ARBITRATION PANEL

Lynn Hirschfeld Brahlin
Jerome F. Crotty
Raymond P. Buschmann

-
-
-

Public Arbitrator, Presiding Chairperson
Public Arbitrator
Public Arbitrator

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Lynn Hirschfeld Brahlin
Public Arbitrator, Presiding Chairperson



Signature Date

Jerome F. Crotty
Public Arbitrator

Signature Date

Raymond P. Buschmann
Public Arbitrator

Signature Date

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

ARBITRATION PANEL

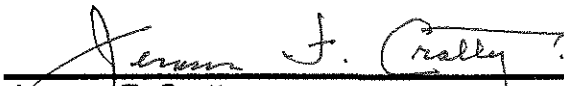
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Jerome F. Crotty	-	Public Arbitrator
Raymond P. Buschmann	-	Public Arbitrator

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Lynn Hirschfeld Brahlin
Public Arbitrator, Presiding Chairperson

Signature Date



Jerome F. Crotty
Public Arbitrator



Signature Date



Raymond P. Buschmann
Public Arbitrator



Signature Date

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Lynn Hirschfeld Brahini	-	Public Arbitrator, Presiding Chairperson
Jerome F. Crotty	-	Public Arbitrator
Raymond P. Buschmann	-	Public Arbitrator

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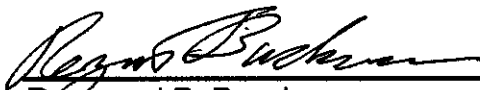
Concurring Arbitrators' Signatures

Lynn Hirschfeld Brahini
Public Arbitrator, Presiding Chairperson

Signature Date

Jerome F. Crotty
Public Arbitrator

Signature Date



Raymond P. Buschmann
Public Arbitrator

July 11, 2015

Signature Date

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