

**Award**  
**FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimants

Francisco Antonio Ramis Galdo, also known as Francisco Ramis and Ines Maria Rivero de Ramis, also known as Ines Maria Ramis, in their respective personal capacities and as Representatives of the Conjugal Partnership Constituted by Them

Case Number: 13-03062

vs.

Respondents

Jose Gabriel Ramirez, Jr.  
Carlos Freire-Borges  
Doel Rafael Garcia-Romero  
Carlos Verner Ubinas-Taylor  
UBS Bank USA  
UBS Financial Services Inc.  
UBS Financial Services of Puerto Rico Inc.

Hearing Site: San Juan, Puerto Rico

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Nature of the Dispute: Customers vs. Associated Persons, Non-Member and Members

This case was decided by a majority-public panel.

**REPRESENTATION OF PARTIES**

For Claimant Francisco Antonio Ramis Galdo, also known as Francisco Ramis and Ines Maria Rivero de Ramis, also known as Ines Maria Ramis, in their respective personal capacities and as Representatives of the Conjugal Partnership Constituted by Them: Francisco Pujol, Esq., Francisco Pujol Law Office, PSC, San Juan, Puerto Rico, Frank A. Dalmau, Esq., San Juan, Puerto Rico and Jose Luis González Castañer, Esq., Jose Luis González Castañer, PSC, San Juan, Puerto Rico.

For Respondent Jose Gabriel Ramirez, Jr.: Guillermo Ramos-Luina, Esq., Santurce, Puerto Rico.

For Respondent Carlos Freire-Borges ("Freire"): Heriberto Lopez, Esq., Melendez Torres Law, PSC, San Juan, Puerto Rico.

For Respondents Doel Rafael Garcia-Romero ("Garcia") and Carlos Verner Ubinas-Taylor ("Ubinas"): Mauricio O. Muñoz-Luciano, Esq. and Ana Margarita Rodríguez-Rivera, Esq., O'Neill & Borges LLC, San Juan, Puerto Rico.

Respondent UBS Bank USA ("UBS Bank") did not appear in this matter.

For Respondents UBS Financial Services Inc. ("UBS") and UBS Financial Services of Puerto Rico Inc. ("UBSPR"): Peter G. Neiman, Esq. and Patrick Mair, Esq., WilmerHale LLP, New York, New York and Roberto C. Quinones-Rivera, Esq., McConnell Valdes LLC, San Juan, Puerto Rico.

### **CASE INFORMATION**

Statement of Claim filed on or about: October 17, 2013.  
Francisco Antonio Ramis Galdo signed the Submission Agreement: October 9, 2013.  
Ines Maria Rivero de Ramis signed the Submission Agreement: October 9, 2013.  
Conjugal Partnership Constituted by Them signed the Submission Agreement: October 9, 2013.

Response to Statement of Claim filed by Respondent Ramirez on or about: April 8, 2014.

Jose Gabriel Ramirez, Jr. signed the Submission Agreement: February 28, 2014.

Statement of Answer filed by Respondents UBS, UBSPR, Freire, Ubinas and Garcia on or about: January 24, 2014.

Carlos Freire-Borges signed the Submission Agreement: February 25, 2014.  
Doel Rafael Garcia-Romero signed the Submission Agreement: February 21, 2014.  
Carlos Verner Ubinas-Taylor signed the Submission Agreement: February 21, 2014.  
UBS Financial Services Inc. signed the Submission Agreement: November 6, 2013.  
UBS Financial Services of Puerto Rico Inc. signed the Submission Agreement: February 26, 2014.

UBS Bank USA did not file a Statement of Answer or sign the Submission Agreement.

Amended Statement of Answer filed by Respondents UBS, UBSPR, Freire, Ubinas and Garcia on or about: May 5, 2014.

Answer to Counterclaim [Response to Amended Statement of Answer] filed by Claimants on or about: May 13, 2014.

Claimants' Motion for Summary Award filed on or about: August 11, 2014.  
Opposition to Claimants' Motion for Summary Award filed by Respondent Ramirez on or about: September 15, 2014.  
Claimants' Motion to Bar Defenses and Facts at the Hearings Pursuant to FINRA Rule 12308(b) filed on or about: August 11, 2014.  
Opposition to Claimants' Motion to Bar Defenses and Facts at the Hearings Pursuant to FINRA Rule 12308(b) and Motion for Summary Award filed by Respondents UBS, UBSPR, Freire, Ubinas and Garcia on or about: September 15, 2014.

Claimants' Motion to Amend Statement of Claim in Accordance with FINRA Rules 12309(b) and 12503 filed on or about: September 10, 2014.  
Notice of Assent to Amendment of Statement of Claim filed by Respondents UBS, UBSPR, Freire, Ubinas and Garcia on or about: October 16, 2014.

Consent Motion to Sever filed by Respondents UBS and UBSPR on or about: July 2, 2015.

### **CASE SUMMARY**

Claimants asserted the following causes of action: (1) violations of Section 10(b) of the Securities Exchange Act, Rule 10b-5 of the Securities Exchange Commission, NYSE and FINRA rules, and the securities laws and other laws and regulations of Puerto Rico; (2) securities fraud; (3) violation of Article 1802 of the Civil Code of Puerto Rico 31 Laws of Puerto Rico Annotated [L.P.R.A.] §5141; and (4) breach of contract. The causes of action relate to, among other things, Claimants' investments in Puerto Rico closed-end mutual funds concentrated in Puerto Rico bonds.

Unless specifically admitted in their Answer, as amended, Respondents UBS, UBSPR, Freire, Ubinas and Garcia denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in his Response to Statement of Claim, Respondent Ramirez denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimants requested: losses in the amount of at least \$2,123,160.01 plus pre-judgment legal interest from the date of filing of the Statement of Claim; attorneys' fees; filing and consultant's fees; arbitration costs and expenses; any amounts needed to liquidate the debit or loan payable balances after reimbursement to Claimants of their net worth in their accounts as of July 31, 2013; punitive or excess damages in the amount of \$1,000,000.00; disgorgement of commissions, markups, markdowns and/or trading profits and/or interests and/or other fees; reimbursement of any and all proceeds resulting from the partial or total liquidation of shares of UBS funds in Claimants' accounts and credited to Claimants' alleged loan(s) originated by UBS Bank and transferred to UBSPR; reimbursement of any and all dividends earned by the shares of UBS funds in Claimants' account(s) and used to reduce the aforesaid loan balances; an order prohibiting Respondents from taking any further action to collect the aforesaid loans; an order from the Panel declaring null and void ab initio any and all loans made to Claimants by UBS Bank, transferred to UBSPR, and supposedly collateralized by the prohibited and illicit pledge and hypothecation of shares of UBS funds in favor of UBS bank; and urgent injunctive relief prohibiting Respondents from making collection efforts of alleged margin, debit or loan balances other than through these arbitration proceedings, and from destroying or disposing of any documents and/or evidence related to Claimants' accounts and the transactions described in the Statement of Claim, including but not limited to electronic and digital records.

At the close of the hearing, Claimants requested compensatory damages between \$2,000,000.00 to \$2,500,000.00 plus the costs of arbitration.

In their Statement of Answer, as amended, Respondents UBS, UBSPR, Freire, Ubinas and Garcia requested dismissal of the Statement of Claim with prejudice, that all FINRA

fees and costs be assessed against Claimants, that the Panel make specific findings to allow the expungement of any record of this matter from the Central Registration Depository ("CRD") records of Respondents Freire, Ubinas and Garcia and such other and further relief as the Panel deemed just and equitable.

In his Response to Statement of Claim, Respondent Ramirez requested dismissal of the Statement of Claim.

### **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 December 6, 2013, Claimants dismissed their claims against Respondent UBS Bank USA with prejudice. Accordingly, the Panel made no determinations with respect to the claims against Respondent UBS Bank USA contained in the Statement of Claim.

On or about March 27, 2015, Claimants dismissed their claims against Respondents Garcia, Freire and Ubinas with prejudice. Accordingly, the Panel made no determinations with respect to the claims against Respondents Garcia, Freire and Ubinas contained in the Statement of Claim.

In their Motion to Bar, Claimants requested that the Panel bar Respondents from presenting at the hearing all defenses and facts known by Respondents and omitted from their Answers to the Statement of Claim. Respondents UBS, UBSPR, Freire, Ubinas and Garcia opposed the Motion. On or about December 30, 2014, Claimants withdrew their Motion to Bar without prejudice before the Panel considered it.

In their Motion for Summary Award, Claimants requested a summary award in their favor on all of their claims due to Respondents' failure to provide specific defenses and responses to the Statement of Claim. Respondents UBS, UBSPR, Freire, Ubinas, Garcia and Ramirez opposed the Motion. On or about December 30, 2014, Claimants withdrew their Motion for Summary Award without prejudice before the Panel considered it.

In their Motion to Amend, Claimants sought to include information related to the pledge or hypothecation of shares of UBS funds. In their Notice of Assent, Respondents stated they did not oppose the Motion to Amend. Thereafter, the Panel granted the Motion to Amend.

In their Statement of Answer, Respondents UBS, UBSPR, Freire, Ubinas and Garcia requested expungement for Respondents Garcia, Freire and Ubinas and briefly discussed scheduling separate expungement hearings during the formal hearing. After the formal hearings concluded, the Panel requested available dates for the expungement hearings and scheduled same on August 10, 12 and 13, 2015. Respondents Freire, Ubinas and Garcia initially agreed to those dates but later decided to seek severance of their expungement requests from this case. Thereafter, Respondents UBS and UBSPR, with Claimants' consent, filed a Motion to Sever in

which they requested: that Respondents Garcia, Freire and Ubinas be severed from this matter to enable them to pursue their requests for expungement in a separate proceeding; and that the Panel expedite the issuance of its Award in the principal case. On or about July 7, 2015, the Panel entered an Order which granted the Consent Motion to Sever. Accordingly, Respondents Garcia, Freire and Ubinas were removed from this case.

Respondent Ramirez did not appear at the evidentiary hearing. Upon review of the file and the representations made by/on behalf of Claimants, the Panel determined that Respondent Ramirez has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the Code of Arbitration Procedure (the "Code").

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 (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents UBS and UBSPR are jointly and severally liable and shall pay to Claimants compensatory damages in the sum of \$250,000.00.
2. Respondents UBS and UBSPR are jointly and severally liable and shall pay to Claimants the sum of \$600.00 representing reimbursement of the non-refundable portion of the claim filing fee previously paid by Claimants to FINRA Dispute Resolution.
3. Any and all relief not specifically addressed herein, including Claimants' requests for attorneys' fees and punitive damages, 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

*\*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 Bank, UBS and UBSPR are assessed the following:

Respondent UBS Bank:  
Member Surcharge = \$ 2,800.00

Respondent UBS:  
Member Surcharge = \$ 2,800.00  
Pre-Hearing Processing Fee = \$ 750.00  
Hearing Processing Fee = \$ 5,000.00

Respondent UBSPR:  
Member Surcharge = \$ 2,800.00  
Pre-Hearing Processing Fee = \$ 750.00  
Hearing Processing Fee = \$ 5,000.00

**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 one (1) arbitrator @ \$200.00 = \$ 200.00  
Respondents UBS and UBSPR submitted one (1) discovery-related motion

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Total Discovery-Related Motion Fees = \$ 200.00

The Panel has assessed the entire discovery-related motion fee of \$200.00 jointly and severally to Respondents UBS and UBSPR.

**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 a single arbitrator @ \$450.00/session = \$ 450.00  
Pre-hearing conference: March 30, 2015 1 session

Two (2) Pre-hearing sessions with the Panel @ \$1,200.00/session = \$ 2,400.00  
Pre-hearing conferences: July 3, 2014 1 session  
May 20, 2015 1 session

Thirteen (13) Hearing sessions @ \$1,200.00/session = \$15,600.00  
Hearing Dates: May 25, 2015 2 sessions  
May 26, 2015 2 sessions  
May 27, 2015 2 sessions  
May 28, 2015 3 sessions  
May 29, 2015 3 sessions  
May 30, 2015 1 session

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Total Hearing Session Fees = \$18,450.00

The Panel has assessed the total hearing session fees of \$18,450.00 jointly and severally to Respondents UBS and UBSPR.

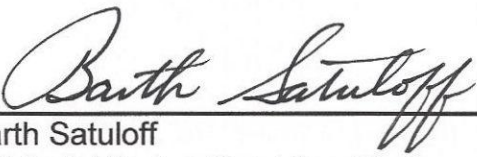
All balances are payable to FINRA Dispute Resolution and are due upon receipt.

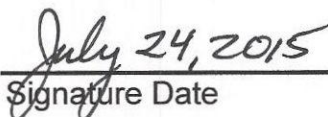
**ARBITRATION PANEL**

Barth Satuloff	-	Public Arbitrator, Presiding Chairperson
Steven Gerard Goerke	-	Public Arbitrator
Howard B. Scherer	-	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**

  
\_\_\_\_\_  
Barth Satuloff  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Steven Gerard Goerke  
Public Arbitrator

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

\_\_\_\_\_  
Howard B. Scherer  
Non-Public Arbitrator

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

July 28, 2015

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



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7-27-2015  
\_\_\_\_\_  
Signature Date

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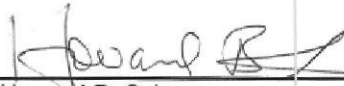
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