

Retired Couple Wins \$5.2 Million Award From UBS Over YES Strategy

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By [Andrew Welsch](#) [Follow](#)

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Two retirees won a \$5.2 million arbitration award against [UBS](#), which they accused of misrepresentation, unsuitability, and breach of fiduciary duty with regard to a complex options-trading strategy.

The case is the latest in a series of [legal battles](#) over the Swiss bank's Yield Enhancement Strategy, which consisted of put and call options. It also comes after UBS agreed in June to pay \$25 million to [settle fraud charges](#) brought by the Securities and Exchange Commission. The SEC said UBS did not provide its financial advisors with adequate training and oversight with regard to the strategy, and that some advisors and their clients did not understand the risks.



The UBS logo
Matthew Lloyd/Bloomberg

UBS marketed and sold YES to approximately 600 investors from February 2016 through February 2017, [according to the SEC](#). Clients ultimately invested about \$2 billion in the strategy before it went awry in late 2018 when market volatility soared, leaving the options strategy with an 18% loss for the year, according to the regulator.

Cases wrapping up. Clients subsequently began filing arbitration claims against UBS, and now a handful of cases have recently reached a conclusion.

In the latest, an arbitration panel awarded damages to George and Sandra Schussel, a retired couple, on Sept. 15—almost three years after they had filed their claims against UBS, according to a copy of the arbitration award.

The couple is “extremely happy” with the result, says Schussels’ attorney, John Rich of New York law firm Rich, Intelisano & Katz.

“The key to the case was the relationship between the broker and the client, with an emphasis on the fiduciary duty of a financial advisor,” says Rich. “We really emphasized to the panel that the fiduciary duty required more from the advisor than to sign what were effectively waivers.”

In addition to awarding damages to the Schussels, the arbitrators also ordered UBS to pay \$28,950 to cover the cost of the hearings.

A UBS spokesman declined to comment on the case.

The hearings were delayed somewhat because of Covid-19, but eventually held in person, according to Rich. “We think it’s really important to have witnesses, clients, and experts in person with the arbitrators,” he says.

Rich co-tried the case with his colleague and fellow attorney Ross Intelisano, he says. New York-based attorney Jacob H. Zamansky, who has represented other former YES clients, was co-counsel on the case, according to the arbitration award.

Rich says his law firm is representing other YES clients in arbitration against UBS. UBS has had a mixed record in arbitration over the YES strategy. In June, it lost two cases and was ordered to pay more than \$2 million in total to aggrieved investors. The Schussels’ win, however, appears to be the largest to date, according to arbitration awards.

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