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UBS Ordered to Pay Florida Broker $3 Million for Defamation

by Jed Horowitz (https://advisorhub.com/team/jed-horowitz/) |
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An arbitration panel has ordered UBS Financial Services to pay a former top producer in Florida $3 million for defamation as a result of its attempts to keep his clients after he left the company.

The award, posted late Thursday on a Financial Industry Regulatory Authority website, is one of the largest related solely to defamation and sends a strong signal that broker-dealers "can no longer use these types of inappropriate tactics to retain clients," said Michael Taafe, whose Sarasota law firm represented the broker.

The broker, James L. Springer, could not be reached for comment at Stifel, Nicolaus & Co. in Sarasota. Since joining the firm in August 2014 after UBS fired him for allegedly submitting personal expenses on his corporate credit card, Springer's trailing-12 production has been about halved to $2 million annually, according to his lawyer.

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Springer's former branch manager and colleagues at UBS retained most of his clients by telling them in a flurry of emails and calls after he left that they had been overcharged on their fee-based accounts and by reimbursing them thousands of dollars, Taaffe said. As a result, the broker, who was managing more than $350 million of client assets, transferred only about 25% of them to his new firm and generated an avalanche of UBS-induced customer complaints on his BrokerCheck record, according to the lawyer.

Spokespeople at UBS did not respond to requests for comment on the award or the circumstances behind it.

The award decision does not spell out the three-person panel's reasoning other than to specify that the $3 million of damages were made on the basis of defamation and that it rejected Springer's request to expunge from his regulatory record the alleged reason for his discharge by UBS Wealth Management Americas after working at the company for more than a dozen years.

Springer allegedly padded his expense account submissions "to get back funds set aside from his own pretax earnings to pay for business expenses," according to a U5 statement from UBS recorded in his BrokerCheck history.

While not denying the expense account violation, which Taaffe said resulted from clerical errors, Springer presented evidence to arbitrators that the real reason for his termination, on a Wednesday in July 2014, was his managers' discovery that he planned to move to Merrill Lynch that Friday. His two sales associates had already transferred their registrations to Merrill, but the firm rescinded its offer when they learned of UBS's plan to mark up his U5 with the expense-account violation, Taafe said.

"You don't fire a four-million dollar produce for a couple of hundred-dollar expense account errors," said Taafe, noting that Springer managed was a managing director at UBS and a member of its top-level Pinnacle Council recognition club. (PInnacle Council membership not only designates brokers who receive the firm's highest payouts but grants a $10,000 annual expense allowance, according to UBS's 2015 compensation plan.)

Springer plans to seek expungement of each of the 18 customer disputes on his BrokerCheck/U5 records that were made since his departure from UBS, according to Taafe.

Far from overcharging customers in the discretionary fee-based accounts in which he specialized, Springer declined to participate in a UBS program called "Realize Your Value" that encouraged brokers to raise advisory account fees to customers, according to Taaffe.

The broker's former manager nevertheless aggressively orchestrated fee-reimbursement offers to Springer's customers because he had recently become a producing manager and needed to build his book. (The effort succeeded, as the manager almost doubled his production to $400,000 and tripled his assets under management, according to evidence the lawyer said was submitted to the panel.)

The manager also told his Florida complex manager that UBS could use the $800,000 promissory note payment Springer gave back to the firm to cover the client-fee refunds, according to email evidence that Taafe said was presented at the arbitration hearings.

"He got caught in a perfect storm," the lawyer said of his client. "We're very happy with the award, but Jim Springer still wants to get his reputation back by showing that he didn't overcharge clients."

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