

**Award**  
**FINRA Office of Dispute Resolution**

---

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

UBS Financial Services Inc.

Hearing Site: Newark, New Jersey

---

Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████: Eric Litow, Esq., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent UBS Financial Services Inc.: David I. Hantman, Esq., Bressler, Amery & Ross, P.C., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: September 20, 2017.  
Amended Statement of Claim filed on or about: February 22, 2018.  
Claimant signed the Submission Agreement: September 20, 2017.

Statement of Answer filed by Respondent on or about: November 13, 2017.  
Answer to Amended Statement of Claim filed on or about: March 22, 2018  
Respondent signed the Submission Agreement: September 23, 2017.

**CASE SUMMARY**

Claimant asserted the following cause of action: expungement.

In the Statement of Answer and Answer to Amended Statement of Claim, Respondent did not oppose Claimant's expungement request.

### **RELIEF REQUESTED**

In the Statement of Claim and Amended Statement of Claim, Claimant requested expungement of Occurrence Number [REDACTED] from her CRD records, compensatory damages in the amount of \$1.00, and any and all other relief deemed just and equitable.

In the Statement of Answer, Respondent requested that the request for compensatory damages be denied.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrator acknowledges that she has read the pleadings and other materials filed by the parties.

The Arbitrator conducted a recorded telephonic hearing on April 10, 2018 so that the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and did not contest the request for expungement.

On March 20, 2018, Claimant notified the customers in the underlying complaint of her request for expungement and of their right to participate in the expungement hearing.

The customers in the underlying complaint did not participate in the expungement hearing and did not oppose Claimant's expungement request.

The Arbitrator finds that the customers do not desire to participate in the expungement hearing and that a decision on the merits of Claimant's request can be entered.

The Arbitrator reviewed Claimant's BrokerCheck® Report and the settlement documents, considered the amount of payments made to the customers, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on the customers not opposing the request for expungement. The Arbitrator also noted that Claimant did not agree to the settlement and did not contribute to the settlement amount.

The Arbitrator noted that Claimant did not previously file a claim requesting expungement of the same disclosure in the CRD.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings, Claimant's BrokerCheck Report, the Settlement Agreement, and the testimonies of witnesses.

## AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Arbitrator recommends the expungement of all references to Occurrence Number [REDACTED] from the registration records maintained by the Central Registration Depository ("CRD"), for Claimant [REDACTED] (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, Claimant [REDACTED] 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 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

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

Evidence presented suggests and supports the following: the customers signed all discretionary selections and the selections were always made with the customers' authorizations; Claimant had no incentive to move the customers' Managed Account Program; over a year period, Claimant spoke with one of the customers almost daily.

Claimant stated that she had 30 to 40 conversations with one of the customers prior to the customer making an investment. The customer was thoughtful and took her time to decide to invest. The Claimant spent at least a year developing a relationship with the customers and Claimant spent a great deal of time consulting with the customers.

The customers were fully aware of the fees and approved all investments. There was no credible evidence presented to support the allegations of wrongdoing that were made against the Claimant.

2. Any and all claims for relief not specifically addressed herein, including compensatory damages, are denied.

## FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

### Filing Fees

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

|                          |           |
|--------------------------|-----------|
| Initial Claim Filing Fee | =\$ 50.00 |
|--------------------------|-----------|

*\*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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, UBS Financial Services Inc. is assessed the following:

|                  |            |
|------------------|------------|
| Member Surcharge | =\$ 150.00 |
|------------------|------------|

### Discovery-Related Motion Fee

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

|   |           |
|---|-----------|
| One (1) decision on a discovery-related motion on the papers<br>with one (1) arbitrator @ \$200.00/decision | =\$200.00 |
|---|-----------|

Claimant submitted one (1) discovery-related motion

---

|                                     |           |
|-------------------------------------|-----------|
| Total Discovery-Related Motion Fees | =\$200.00 |
|-------------------------------------|-----------|

The Arbitrator has assessed the discovery-related motion fees of \$200.00 to Claimant.

### Hearing Session Fees and Assessments

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

|   |           |
|---|-----------|
| One (1) pre-hearing session @ \$50.00/session | =\$ 50.00 |
| Pre-hearing conference: February 14, 2018     | 1 session |

|  |           |
|--|-----------|
| One (1) hearing session on expungement request @ \$50.00/session | =\$ 50.00 |
| Hearing Date: April 10, 2018                                     | 1 session |

---

|                            |           |
|----------------------------|-----------|
| Total Hearing Session Fees | =\$100.00 |
|----------------------------|-----------|

The Arbitrator has assessed the hearing session fees of \$100.00 to Claimant.

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

