

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

UBS Financial Services Inc.

Hearing Site: Denver, Colorado

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ (“Claimant”): Dochter Kennedy, MBA, J.D. and Tad Burton, J.D., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent UBS Financial Services Inc. (“Respondent”): Igor V. Stadnik, Esq., Keesal, Young & Logan, Seattle, Washington.

CASE INFORMATION

Statement of Claim filed on: February 1, 2018.

Claimant signed the Submission Agreement: February 1, 2018.

Statement of Answer filed by Respondent on: March 21, 2018.

Respondent signed the Submission Agreement: February 7, 2018.

CASE SUMMARY

Claimant requested expungement of reference to a customer complaint, occurrence number ██████████ (“Underlying Complaint”) from his Central Registration Depository (“CRD”) record.

In the Statement of Answer, Respondent advised that while it does not oppose to Claimant’s request for expungement, it denies any wrongdoing alleged by Claimant.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Complaint from his CRD record pursuant to FINRA Rule 2080(b)(1)(A) as the claim, allegation or information is factually impossible or clearly erroneous;

2. Expungement of the Underlying Complaint from his CRD record pursuant to FINRA Rule 2080(b)(1)(C) finding the claim, allegation or information is false;
3. An award of compensatory damages in the amount of \$1.00 from Respondent; and
4. Any and all other relief that the Arbitrator deems just and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

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

On August 20, 2018, Claimant provided a copy of his notice to the customer in the Underlying Complaint ("Customer") regarding the Statement of Claim and notice of the expungement hearing.

The Arbitrator conducted a recorded telephonic hearing on September 18, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement. Respondent appeared at the expungement hearing and did not oppose Claimant's request for expungement.

The Customer did not appear at the expungement hearing. At the expungement hearing, Claimant's counsel advised that he received a returned undeliverable notice with respect to the August 20 letter which Claimant's counsel sent to Customer via certified mail. The Arbitrator found that Claimant's effort to give notice to the Customer was sufficient.

The Arbitrator reviewed Claimant's BrokerCheck[®] Report.

The Arbitrator noted that Claimant did not previously request expungement of the Underlying Complaint.

The Arbitrator determined that the Underlying Complaint was not settled and therefore there were no settlement agreements to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's BrokerCheck[®] Report; performance reports; multiple account documents with the Customer's signature on each document; Respondent's response to the Customer's complaint letter; and Claimant's oral testimony.

The parties present at the hearing have agreed that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the 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 the Underlying Complaint, occurrence number [REDACTED], from Claimant [REDACTED] (CRD# [REDACTED]) registration records maintained by the CRD, 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 of Arbitration Procedure ("Code"), the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

The claim, allegation, or information is false.

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

The complaint alleged \$5000.00 in losses. That claim is totally false, clearly erroneous and factually impossible. The investment portfolio in issue gained in value during the time Claimant was involved with it; thus this case should not have been reported to the CRD in the first place. Additionally, the allegation of forgery is false. All signatures and sign offs were executed solely by the Customer, not Claimant. The allegations of unsuitability, misrepresentations and fraud are totally false and clearly erroneous. After the low risk portfolio was constructed, it remained essentially static. The Customer was pleased with its performance, the Underlying Complaint was filed in a fit of rage caused by a family dispute over the dissolution of a family business not involving Claimant.

2. Claimant's request for damages in the amount of \$1.00 from Respondent is denied.
3. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, 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
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge	= \$ 150.00
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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(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 @ \$50.00/session	= \$ 100.00
Pre-hearing conferences: June 8, 2018	1 session
June 28, 2018	1 session

One (1) Hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: September 18, 2018	1 session

Total Hearing Session Fees	= \$ 150.00
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The Arbitrator has assessed \$150.00 of the hearing session fees to Claimant.

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

ARBITRATOR

Rody P. Biggert

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Sole 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.

Arbitrator's Signature

/Rody P. Biggert rpb/

October 2, 2018

Rody P. Biggert
Sole Public Arbitrator

Signature Date

October 2, 2018
Date of Service (For FINRA Office of Dispute Resolution office use only)