

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

UBS Financial Services Inc.

Hearing Site: Atlanta, Georgia

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ Christopher Cummins, Esq., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent UBS Financial Services Inc.: Jacqueline R. Meyers, Esq., Bressler, Amery & Ross, P.C., Florham Park, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: February 23, 2018.

████████████████████ signed the Submission Agreement: February 23, 2018.

Statement of Answer filed by Respondent on or about: April 18, 2018.

UBS Financial Services Inc. signed the Submission Agreement: March 1, 2018.

CASE SUMMARY

Claimant asserted the following cause of action: expungement.

Unless specifically admitted in the Statement of Answer, Respondent denied any allegations of wrongdoing made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of occurrence numbers ██████████ from his CRD records; compensatory damages in the amount of \$1.00; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent did not oppose Claimant's request for expungement and requested that Claimant's request for compensatory damages be denied, and that all forum fees be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Arbitrator conducted a recorded telephonic hearing on October 5, 2018 so the parties could present oral argument and evidence on Claimant [REDACTED] request for expungement.

Claimant provided the FINRA Office of Dispute Resolution with proof that he served the customers in occurrence numbers [REDACTED] with notice of his expungement request and notice of the customers' right to participate and testify at the expungement hearing. The customer in occurrence number [REDACTED] did not participate in the expungement hearing and did not contest the request for expungement. The customers in occurrence number [REDACTED] participated in the expungement hearing and contested Claimant's request for expungement. The customer in occurrence number [REDACTED] did not participate in the expungement hearing but submitted email correspondence supporting Claimant's request for expungement.

At the hearing, Claimant withdrew his request for compensatory damages.

The Arbitrator reviewed the BrokerCheck® Report for Claimant [REDACTED]

The Arbitrator noted that Claimant Mark David Rosenberg did not previously file a claim requesting expungement of occurrence numbers [REDACTED].

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. Claimant's request for expungement of occurrence numbers [REDACTED], and [REDACTED] from his CRD records is denied.
2. Any and all claims for relief not specifically addressed herein are denied.

ARBITRATORS' FINDING

FINRA Rule 2080 mandates that customer complaints can be expunged from a CRD record only when demonstrated false or otherwise inaccurate in some essential way. The three customer complaints here allege that auction rate securities were recommended to them as liquid and safe investments. In fact, they were products with a relatively limited market subject to saturation and consequent illiquidity, which in fact occurred, freezing these investments in customer accounts for some eight months until regulatory action resulted in repurchase at par. Testimony by Claimant is that he believed the products were safe and liquid. Testimony by one of the involved customers in occurrence number [REDACTED] was that she and her husband were told that the investment was liquid "just like cash" and safe as money market funds. After

consideration of this testimony, the pleadings and the CRD record, which includes a detailed word-for-word description of the auction rate imbroglio for each complaint, it is clear that Claimant has not met his burden of demonstrating that the CRD record is false or otherwise inaccurate sufficient to justify expungement of these complaints, which is 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
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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 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
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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, 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 with a single arbitrator @ \$50.00/session	= \$	50.00
Pre-hearing conference: June 18, 2018	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing Date: October 5, 2018	1 session	

Total Hearing Session Fees	= \$	100.00
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The Arbitrator has assessed the \$100.00 hearing session fees to Claimant.

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

ARBITRATOR

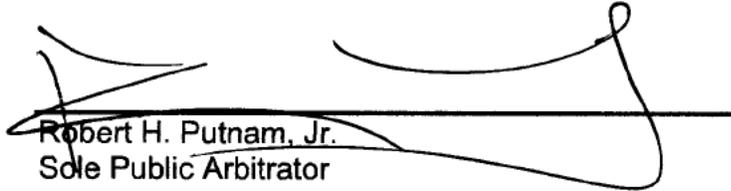
Robert H. Putnam, Jr.

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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


Robert H. Putnam, Jr.
Sole Public Arbitrator

10-18-18
Signature Date

October 18, 2018

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