

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

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In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

UBS Financial Services Inc.

Hearing Site: New York, New York

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████: Dochter Kennedy, MBA, J.D., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent UBS Financial Services Inc.: Denver G. Edwards, Esq., and Katie Courtis, Esq., Bressler, Amery & Ross, P.C., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: February 21, 2018.  
Claimant signed the Submission Agreement: February 21, 2018.

Statement of Answer filed by Respondent on or about: April 19, 2018.  
Respondent 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 the allegations made in the Statement of Claim and did not oppose the request for expungement.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of occurrence number ██████████, compensatory damages in the amount of \$1.00 and any and all relief that the Arbitrator deems just and equitable.

In the Statement of Answer Respondent requested Claimant's claim for compensatory damages and any other damages be denied, and did not oppose the expungement request.

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

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

By letter dated September 7, 2018, Claimant withdrew his request for compensatory damages.

The Arbitrator conducted a recorded telephonic hearing on September 28, 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 the underlying complaint with notice of his expungement request and notice of the customers' right to participate and testify at the expungement hearing.

The customers did not participate in the expungement hearing and did not contest the request for expungement.

The Arbitrator reviewed the BrokerCheck® Report for Claimant [REDACTED] 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 [REDACTED] [REDACTED] did not contribute to the settlement amount.

The Arbitrator noted that Claimant [REDACTED] 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: Claimant's testimony.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, 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 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:

The customers' complaint alleged that Claimant [REDACTED] "would call them", whereas the evidence shows that the customers asked [REDACTED] to follow Respondent's Branch Manager's direction, and, at no time did [REDACTED] make suggestions of his own to the customers. He was merely a go-between.

2. Any and all claims for relief not specifically addressed herein 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
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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 event 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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#### **Postponement Fees**

Postponements granted during these proceedings for which fees were assessed or waived:

September 10, 2018 postponement by Claimant	= \$ 50.00
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Total Postponements Fees	= \$ 50.00
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The Arbitrator has assessed the \$50.00 postponement fee to Claimant.

**Last Minute Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within ten calendar days before the start of a scheduled hearing session:

September 10, 2018 postponement by Claimant = \$600.00

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Total Last Minute Cancellation Fees = \$600.00

The Arbitrator has assessed the \$600.00 last minute cancellation fee to Claimant.

**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  
with one (1) arbitrator @ \$200.00/decision = \$200.00

Claimant submitted one discovery-related motion

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Total Discovery-Related Motion Fees = \$200.00

The Arbitrator has assessed \$100.00 of the discovery-related motion fees to Claimant.  
The Arbitrator has assessed \$100.00 of the discovery-related motion fees to Respondent.

**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 8, 2018 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00  
Hearing Date: September 28, 2018 1 session

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Total Hearing Session Fees = \$100.00

The Arbitrator has assessed \$50.00 of the hearing session fees to Claimant.  
The Arbitrator has assessed \$50.00 of the hearing session fees to Respondent.

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

**ARBITRATOR**

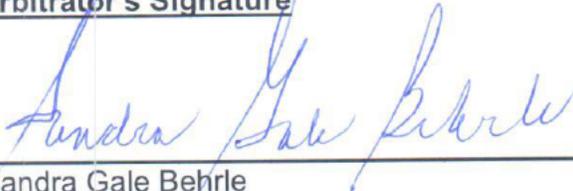
Sandra Gale Behrle

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

**Arbitrator's Signature**



Sandra Gale Behrle  
Sole Public Arbitrator



Signature Date

**November 5, 2018**

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