

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

██████████

Case Number: ██████████

vs.

Respondent

UBS Financial Services Inc.

Hearing Site: Los Angeles, California

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ ("Claimant"): Michael Bessette, Esq., HLBS Law, Westminster, Colorado.

For Respondent UBS Financial Services Inc. ("Respondent"): Samantha D. Parrish, Esq., Keesal, Young & Logan, Long Beach, California.

CASE INFORMATION

Statement of Claim filed on or about: July 9, 2018.
Claimant signed the Submission Agreement: July 9, 2018.

Statement of Answer filed by Respondent on or about: August 30, 2018.
Respondent signed the Submission Agreement: July 16, 2018.

CASE SUMMARY

Claimant requested expungement of a customer complaint ("Underlying Complaint"), occurrence number ██████████, from his Central Registration Depository ("CRD") records.

In the Statement of Answer, Respondent advised that while it does not oppose Claimant's request for expungement, it takes the position that Claimant is not entitled to an award of compensatory damages.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

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

In the Statement of Answer, Respondent did not set forth a relief request.

At the expungement hearing, Claimant withdrew his request for \$1.00 in compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

On December 26, 2018, Claimant provided a copy of Respondent's letter of offer dated October 8, 2008 to the customer in the Underlying Complaint ("Customer") to liquidate his Action Rate Securities ("ARS") ("ARS Settlement Letter").

On January 2, 2019, Claimant provided a copy of the public information available on the Lexis Nexis database and a copy of the obituary indicating that the Customer was deceased.

On January 8, 2019, Claimant provided an Affidavit of Service signed by Claimant's counsel advising that, upon review of the public information available on the Lexis Nexis database, the Customer was deceased. Accordingly, service of the Statement of Claim and notice of the expungement hearing on the Customer could not be completed.

The Arbitrator conducted a recorded telephonic hearing on February 4, 2019, so the parties could present oral argument and evidence on Claimant's request for expungement.

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

The Arbitrator reviewed Claimant's BrokerCheck® Report.

The Arbitrator reviewed the ARS Settlement Letter and found that it was the only settlement agreement in the Underlying Complaint. There was no separate or other settlement agreement with Claimant, nor did Claimant participate in or pay any money in connection with the ARS Settlement Letter. The Arbitrator noted that there was no settlement amount but rather that the Customer sold his ARS investments at par value to Respondent. The Arbitrator also considered the other terms and conditions of settlement. The Arbitrator further noted that the settlement was not conditioned on the Customer not opposing Claimant's expungement request.

The Arbitrator noted that Claimant did not previously request expungement of the same disclosure in the CRD.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence:

- Statement of Claim;
- Statement of Answer;
- Claimant's BrokerCheck® Report;
- Obituary for the Customer; and
- ARS Settlement Letter.

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

Claimant played no part in the events that led to the Underlying Complaint. Claimant held no responsibility for the global market events that spurred the Underlying Complaint.

The ARS Settlement Letter was one of many such settlements made by Respondent to many similar ARS customers. This was a product failure in a non-discretionary account.

Claimant did not contribute to the settlement and other that the Underlying Complaint, Claimant has a clear history.

2. 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:

One (1) Pre-hearing session with a single arbitrator @ \$50.00/session	= \$ 50.00
Pre-hearing conference: October 25, 2018	1 session

One (1) Hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Dates: February 4, 2019	1 session

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

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

ARBITRATOR

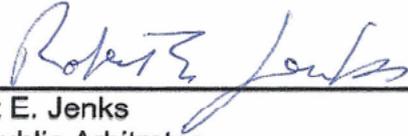
Robert E. Jenks

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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 E. Jenks
Sole Public Arbitrator

2/7/19

Signature Date

February 8, 2019
Date of Service (For FINRA Office of Dispute Resolution office use only)