

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

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In the Matter of the Arbitration Between:

Claimant

Case Number

vs.

Respondent

Hearing Site: New York, New York

UBS Financial Services Inc.

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant [REDACTED] Eric Litow, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent UBS Financial Services Inc.: Angela A. Turiano, Esq., Bressler, Amery & Ross, P.C., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: May 8, 2018.

[REDACTED] signed the Submission Agreement: May 8, 2018.

Statement of Answer filed by Respondent on or about: June 28, 2018.

UBS Financial Services Inc. signed the Submission Agreement: May 10, 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 asserted various affirmative defenses.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of occurrence number [REDACTED] 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 of occurrence number [REDACTED] Respondent objected to Claimant's 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.

Claimant provided the FINRA Office of Dispute Resolution with proof that he served the customer in the underlying complaint in occurrence number [REDACTED] with notice of his expungement request and notice of the customer's right to participate and testify at the expungement hearing. The customer did not participate in the expungement hearing and did not contest the request for expungement.

The Arbitrator conducted a recorded telephonic hearing on January 3, 2019 so the parties could present oral argument and evidence on Claimant [REDACTED] request for expungement.

The Arbitrator reviewed the BrokerCheck® Report for [REDACTED]

The Arbitrator noted that [REDACTED] did not previously file a claim requesting expungement of occurrence number [REDACTED]

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings, Claimant's submissions, the Claimant's BrokerCheck® Report, and Claimant's testimony.

### 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 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:

A customer of the Claimant suffered financial losses during the 2002 dot.com crash. The customer contacted Respondent to advise that he believed he was a victim of unsuitability in securities selection, and by unauthorized, excessive trading carried out by the Claimant. Claimant responded to the Respondent that all trading was unsolicited, both as to type and frequency, and under exclusive control of the customer. After conclusion of Respondent's investigation, it denied the customer's claims. The customer did not pursue the matter further in arbitration or court.

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 events giving rise to the dispute. Accordingly, as a party, Respondent 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: September 14, 2018 1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: January 3, 2019 1 session	

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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**

James S. Hazard

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**

  
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James S. Hazard  
Sole Public Arbitrator

  
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Signature Date

**January 16, 2019**

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