

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

Case Number:

vs.

Respondent

Hearing Site: Seattle, Washington

UBS Financial Services Inc.

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant [REDACTED] ("Claimant"): Erica Harris, Esq. and Dochter Kennedy, MBA, J.D., AdvisorLaw, LLC, Westminster, Colorado.

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

CASE INFORMATION

Statement of Claim filed on or about: December 26, 2018.

Amended Statement of Claim filed on or about: March 4, 2019.

Claimant signed the Submission Agreement: December 21, 2018.

Statement of Answer filed by Respondent on or about: April 11, 2019.

Respondent signed the Submission Agreement: February 6, 2019.

CASE SUMMARY

Claimant asserted a claim seeking expungement of a customer complaint, occurrence number [REDACTED] ("Underlying Complaint") from her Central Registration Depository ("CRD") records.

In the Amended Statement of Claim, Claimant included additional factual allegations.

In the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and opposed Claimant's request for damages but advised that it does not oppose Claimant's request for expungement.

RELIEF REQUESTED

In the Statement of Claim and Amended Statement of Claim, Claimant requested:

1. Expungement of the Underlying Complaint from her 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 her CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
3. 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 specific relief request.

At the hearing, Claimant withdrew his request for \$1.00 in damages from Respondent.

OTHER ISSUES CONSIDERED AND DECIDED

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

On July 26, 2019, Claimant provided notice that a copy of the Statement of Claim and notice of the expungement hearing had been served on the customer in the Underlying Complaint (“Customer”).

On August 1, 2019, Claimant submitted an Affidavit of Service advising that a copy of the Statement of Claim had been served on the Customer.

On August 18, 2019, the Customer’s daughter submitted a letter dictated by the Customer in opposition to the expungement request.

The Arbitrator conducted a recorded telephonic hearing on August 26, 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 contest the request for expungement. The Customer did not participate in the expungement hearing, but opposed the request for expungement as noted in the August 18 letter.

The Arbitrator reviewed the BrokerCheck® Report for Claimant.

The Arbitrator noted Respondent denied the Underlying Complaint and therefore there were no settlement documents to review.

The Arbitrator noted that Claimant 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; Statement of Claim; BrokerCheck® Report; and Customer’s letter submission.

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 the registration records maintained by the 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 of Arbitration Procedure ("Code"), the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is false.

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

Claimant did not misrepresent the terms of the annuity to the Customer. Claimant adequately described the details of the annuity at the time of purchase and the Customer made the decision to buy it.

Claimant had multiple conversations with the Customer about the Customer's financial background and goals. Claimant satisfied her professional obligation to understand the Customer's financial situation and goals. The annuity that Claimant recommended was a reasonable product to satisfy the Customer's needs. The Customer made the decision to buy the annuity and only complained much later. Claimant's conduct and representations were appropriate and the complaint should be expunged from her record.

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

**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

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: June 3, 2019 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$50.00
Hearing Date: August 26, 2019 1 session

Total Hearing Session Fees = \$100.00

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

Helen Marinak Blohm

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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

Helen Marinak Blohm

Helen Marinak Blohm
Sole Public Arbitrator

09/08/2019

Signature Date

September 09, 2019

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