

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

██████████

Case Number

██████████

vs.

Respondent

UBS Financial Services, Inc.

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ Harris Freedman, Esq., HLBS Law, Westminster, Colorado.

For Respondent UBS Financial Services, Inc.: Joelle A. Simms, Esq., Bressler, Amery and Ross, P.C., Fort Lauderdale, Florida.

CASE INFORMATION

Statement of Claim filed on or about: October 3, 2018.

██████████ signed the Submission Agreement: October 3, 2018.

Statement of Answer filed by Respondent on or about: November 19, 2018.

UBS Financial Services, Inc. signed the Submission Agreement: October 4, 2018.

CASE SUMMARY

Claimant asserted the cause of action of inaccurate reporting on his Central Registration Depository ("CRD") record. The cause of action relates to a customer complaint (Occurrence No. ██████████) in which the underlying customers complained of the purchase of Lehman Brothers Holdings, Inc. structured products in their account.

In the Statement of Answer, Respondent stated that it did not oppose Claimant's request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: a recommendation of expungement of all references to the customer complaint from Claimant's CRD records; compensatory damages in the amount of \$1.00; and any and all other relief that the Arbitrator deemed just and equitable.

In the Statement of Answer, Respondent did not delineate a specific relief request.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about March 27, 2019, Claimant filed with FINRA Office of Dispute Resolution an Affidavit of Service of the Statement of Claim and notice of the expungement hearing upon the underlying customers.

The Arbitrator conducted a recorded telephonic hearing on April 23, 2019, so the parties could present oral argument and evidence on Claimant's request for expungement. Neither Respondent nor the underlying customers participated in the expungement hearing or contested the request for expungement.

The Arbitrator reviewed the BrokerCheck® Report for Claimant and the settlement documents between the underlying customers and Respondent, considered the amount of payments made to any party, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on the underlying customers not opposing the request for expungement, that Claimant did not contribute to the settlement amount, and 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: the sworn testimony of Claimant and Claimant's hearing exhibits 1 through 10.

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. Inasmuch as Claimant did not reiterate his relief request for compensatory damages in the amount of \$1.00 during the expungement hearing, the Arbitrator deems the request moot and withdrawn.
2. The Arbitrator recommends the expungement of all references to Occurrence No. [REDACTED] from registration records maintained by the CRD, for Claimant [REDACTED] [REDACTED] (CRD No. [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 (the "Code"), the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 findings based on the following reasons: the Arbitrator finds that the underlying customers' claim of over-concentration in the underlying case was false, clearly erroneous and factually impossible. The structured product on which the claim was based was only about 4% of a \$2,500,000.00 portfolio; the underlying customers were experienced investors and had a moderately high-risk tolerance; the underlying customers never expressed any dissatisfaction with the investment and did not make Claimant a party in the case they filed against Respondent; and the parties settled the \$700,000.00 claim for a nominal amount. Clearly, the settlement was a business decision that was made by Respondent without reference to Claimant's desire to clear his name and without his participation in the decision or his contribution to the settlement amount.

Therefore, the Arbitrator recommends that Claimant's petition for expungement of his record be granted.

3. 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:

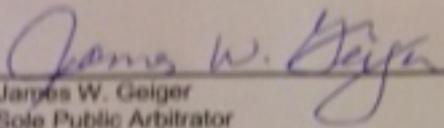
ARBITRATOR

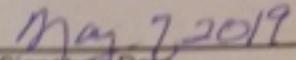
James W. Geiger

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


James W. Geiger
Sole Public Arbitrator


Signature Date

MAY 8, 2019

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