

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"): Owen Harnett, Esq., HLBS Law, Westminster, Colorado.

For Respondent UBS Financial Services Inc. ("Respondent"): Elizabeth H. Lindh, Esq. and Samantha Parrish, Esq., Keesal Young & Logan, San Francisco, California.

CASE INFORMATION

Statement of Claim filed on or about: June 6, 2018.

Claimant signed the Submission Agreement: June 6, 2018.

Statement of Answer filed by Respondent on or about: August 21, 2018

Respondent signed the Submission Agreement: June 13, 2018.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of four customer complaints ("Underlying Complaints"), occurrence numbers ██████████ ██████████ and ██████████ from his Central Registration Depository ("CRD") records.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Complaints 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 Complaints from his 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 opposed Claimant's request for \$1.00 in damages.

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

OTHER ISSUES CONSIDERED AND DECIDED

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

Notice to the Underlying Customers

On November 5, 2018, Claimant provided notice that the Statement of Claim and notice of the November 14, 2018 expungement hearing had been served on: the customer in occurrence number [REDACTED] ("Mr. RA"); the customer in occurrence number [REDACTED] ("Mr. RR"); the representative for customer in occurrence number [REDACTED] ("Mrs. JA"); and the customer in occurrence number [REDACTED] ("Mr. SP"). Hereinafter, Mr. RA, Mr. RR, Mrs. JA and Mr. SP are collectively referred to as the "Customers."

On November 13, 2018, Mr. RA submitted an opposition to Claimant's request for expungement.

On November 28, 2018, Claimant filed an Affidavit of Service, signed by Claimant's counsel, advising that the Customers had been served with copies of the Statement of Claim.

On December 3, 2018, Claimant provided notice of the February 12, 2019 expungement hearing to the Customers. On December 10, 2018, Claimant filed an Affidavit of Service, signed by Claimant's counsel, advising that the Customers had been served notice of the February 12, 2019 hearing.

On January 11, 2019, Claimant provided notice of the February 12, 2019 expungement hearing to the Customers. On January 18, 2019, Claimant filed an Affidavit of Service, signed by Claimant's counsel, advising that the Customers had been served with notice of the February 12, 2019 hearing.

On February 15, 2019, Claimant provided notice of the expungement hearing to the Customers which was rescheduled for March 26, 2019. On February 25, 2019, Claimant filed an Affidavit of Service, signed by Claimant's counsel, advising that the Customers had been served with notice of the March 26, 2019 hearing.

On May 13, 2019, Claimant provided notice of the June 13, 2019 expungement hearing to the Customers. On May 15, 2019, Claimant filed an Affidavit of Service, signed by

Claimant's counsel, advising that the Customers had been served with notice of the June 13, 2019 hearing.

Expungement Hearings

The Arbitrator conducted recorded telephonic hearings on November 14, 2018, March 26, 2019 and June 13, 2019 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in all the expungement hearings and, as stated in the Statement of Answer, did not contest the request for expungement. Mr. RA appeared at the November 14, 2018 and March 26, 2019 expungement hearings.

Mr. RR, Mrs. JA, and Mr. SP did not participate in any of the expungement hearings. The Arbitrator found that those Customers had notice of the hearings.

At the June 13, 2019 expungement hearing, the Arbitrator ordered that Claimant provide a copy of each complaint filed in the Underlying Complaints. On June 24, 2019, Claimant filed additional exhibits in response to the June 13 Order.

Settlement Agreements

The Arbitrator has addressed the settlements in the Underlying Complaints for which he is recommending expungement (occurrence numbers [REDACTED] and [REDACTED] below.

The Arbitrator reviewed the settlement documents for occurrence number [REDACTED] 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 Mr. RR not opposing the request for expungement. The Arbitrator also noted that Claimant did not contribute to the settlement amount.

The Arbitrator noted that occurrence number [REDACTED] was listed as "Denied" on Claimant's BrokerCheck® Report and, accordingly, there were no settlement documents to review.

Documents Relied Upon

The Arbitrator reviewed Claimant's BrokerCheck® Report. The Arbitrator noted that Claimant did not previously file a claim requesting expungement of the same disclosures in the CRD.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Statement of Claim with Exhibits, Claimant's testimony, Claimant's additional exhibits submitted in June 24, 2019, and testimony of Claimant's assistant.

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 hearings, and post-hearing submissions, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's request for expungement of occurrence numbers [REDACTED] and [REDACTED] from his CRD records is denied.
2. The Arbitrator recommends the expungement of all references to occurrence numbers [REDACTED] and [REDACTED] from 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 factually impossible or clearly erroneous.

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

Occurrence Number [REDACTED] (in which Mr. RR is the underlying customer)

After considering the pleadings, evidence, and testimony presented, the request for expungement is granted. Mr. RR alleged unauthorized trading and unsuitability. However, Mr. RR had a Portfolio Management Program ("PMP") account and was informed of all trades. Further, the evidence demonstrated that the investments made for Mr. RR were suitable. Accordingly, Mr. RR's claims are factually impossible and clearly erroneous based on the evidence presented under FINRA Rule 2080(b)(1)(A).

Occurrence Number [REDACTED] (in which Mr. SP is the underlying customer)

After considering the pleadings, evidence, and testimony presented, including testimony of Claimant's assistant, the request for expungement is granted. Mr. SP was fully informed, in writing, of the commissions that would be charged on his various accounts, which was customized for a blended fee of approximately one percent combined of all Mr. SP's accounts. The evidence presented demonstrated that Claimant did not misrepresent the nature of the investments or the commissions. Further, the evidence showed that the investments made for Mr. SP were suitable. Finally, the evidence demonstrated that there were no unauthorized transfers amongst Mr. SP's various accounts for the purpose of

charging or earning higher commissions. Mr. SP's claims are factually impossible and clearly erroneous based on the evidence presented under FINRA Rule 2080(b)(1)(A).

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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Postponement Fees

Postponements granted during these proceedings for which fees were assessed:

February 12, 2019, postponement by Claimant	= \$ 50.00
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Total Postponement Fees	= \$ 50.00
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The Arbitrator has assessed \$50.00 of the postponement fees 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:

February 12, 2019, postponement by Claimant	= \$600.00
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Total Last Minute Cancellation Fees	= \$600.00
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The Arbitrator has assessed \$600.00 of the last minute cancellation fees to Claimant.

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: September 24, 2018 1 session

Three (3) hearing sessions on expungement request @ \$50.00/session = \$150.00
Hearing Dates: November 14, 2018 1 session
March 26, 2019 1 session
June 13, 2019 1 session

Total Hearing Session Fees = \$200.00

The Arbitrator has assessed \$200.00 of the hearing session fees to Claimant.

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

ARBITRATOR

Joseph C. Watson

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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



Joseph C. Watson
Sole Public Arbitrator

August 8, 2019

Signature Date

August 8, 2019

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