

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

Case Number

vs.

Respondent

Hearing Site: Pittsburgh, Pennsylvania

UBS Financial Services Inc.

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant [REDACTED] Erica Harris, Esq. and Doctor Kennedy, Esq.,
AdvisorLaw, LLC, Westminster, Colorado.

For Respondent UBS Financial Services Inc.: David Butler, Esq., Bressler, Amery &
Ross, PC, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: June 4, 2018.

[REDACTED] signed the Submission Agreement: June 4, 2018.

Statement of Answer filed by Respondent on or about: June 12, 2018.

UBS Financial Services Inc. signed the Submission Agreement: June 12, 2018.

CASE SUMMARY

Claimant asserted the cause of action of inaccurate reporting on his Central
Registration Depository ("CRD") records. The cause of action relates to a customer
complaint (Occurrence No. [REDACTED] involving the customer's investments in Auction
Rate Securities.

In the Statement of Answer, Respondent stated that it does not oppose the request for
expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of all references to
Occurrence No. [REDACTED] from his CRD records; compensatory damages of \$1.00; and
any and all other relief that the Arbitrator deemed just and equitable.

In the Statement of Answer, Respondent requested denial of Claimant's request for compensatory damages, and that all forum and other FINRA fees be assessed solely against Claimant.

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

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about November 20, 2018, Claimant filed with FINRA Office of Dispute Resolution proof of service upon the underlying customer in connection with Occurrence No. [REDACTED] of the Statement of Claim in this matter, the notice and date of the upcoming expungement hearing, and of the underlying customer's right to participate therein. The customer did not submit any response thereto.

On or about January 10, 2019, Claimant filed with FINRA Office of Dispute Resolution an Affidavit attesting to service of the Statement of Claim upon the underlying customer in connection with Occurrence No. [REDACTED]

The Arbitrator conducted a recorded in-person hearing on January 11, 2019, so the parties could present oral argument and evidence on Claimant's request for expungement. Respondent appeared at the expungement hearing and did not contest the request for expungement.

The customer did not participate in the expungement hearing and did not contest the request for expungement.

The Arbitrator reviewed the BrokerCheck® Report for Claimant. Respondent represented that there were no formal settlement agreement documents for the Arbitrator to review as the decision to repurchase the customer's securities was part of a global settlement with regulators. Respondent did not condition the stock repurchase on the customer not opposing the request for expungement.

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: Statement of Claim, Statement of Answer and Submission Agreements; BrokerCheck report dated December 20, 2018; the Customer's Resource Management Account; Respondent's letter to the underlying customer dated October 25, 2006, regarding his Pace account; Respondent's Answer to complaint dated June 10, 2008; Claimant's letter to customer dated November 20, 2018 regarding expungement; and the customer complaint.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, if any, 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 No. [REDACTED] from the CRD records for Claimant (CRD# [REDACTED]) with the understanding that, pursuant to Notice to Members 04-16, Claimant 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; and

The claim, allegation, or information is false.

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

The Arbitrator recommends that Claimant be granted expungement regarding the customer complaint made on or about May 23, 2008 (exhibit C-6).

By way of background, the customer did not make an appearance at the hearing. She was sent a certified mail request on November 20, 2018 and as of the hearing date she has not responded to the mail sent by Claimant's counsel.

The Arbitrator found the claim made by the customer to be false and erroneous. Regarding the investments themselves, the Arbitrator found that, at the time of their purchase in 2007, Auction Rate Securities (ARS) were viewed as a conservative investment. The purchase in question represented approximately 5% of the customer's portfolio. The Customer Account Application (exhibit C-2), was clearly marked for capital appreciation and moderate risk. The risk profile on the application is not consistent with the complaint made by the Customer Complaint (exhibit C-6) in which the customer complains that she had "no tolerance for risk" as it relates to the \$50,000.00 in question. This is not credible in light of the size of the investment relative to the portfolio and the investments in the portfolio (exhibit C-3). The investment was suitable for the customer.

Respondent and the customer settled her complaint by way of returning the \$50,000.00 to the customer. This was a business decision entirely unrelated to the actions of Claimant. In the course of Respondent's completing its obligation to report the complaint on the BrokerCheck Report (exhibit C-1), Respondent clearly indicated that Claimant was not responsible for the payment, not part of the settlement and had no knowledge of the settlement. Indeed the payment was part of a Global

repurchase agreement entered into between UBS and several regulatory bodies. Furthermore, counsel for Respondent noted that Claimant should be absolved of any wrongdoing in this matter.

Finally, the testimony of Claimant was credible. Specifically, he was forthright, direct and answered all of the questions posed by both his attorney and the Arbitrator. He was clear about his role in this matter; including his conversation with the customer before the written complaint, confirmed that he had no knowledge of the written complaint, was unaware of the settlement, and did not pay into or participate in the decision to settle the customer complaint.

Therefore, based on the customer account application, the testimony of Claimant and the Brokercheck Report, the complaint is erroneous and false.

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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Discovery-Related Motion Fee

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) arbitrator @ \$200.00/decision	= \$200.00
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Claimant submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	= \$200.00
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The Arbitrator has assessed \$100.00 of the discovery-related motion fees to Claimant.

The Arbitrator has assessed \$100.00 of the discovery-related motion fees to Respondent.

ARBITRATOR

Jim Geiger

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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



Jim Geiger
Sole Public Arbitrator

3/18/2019

Signature Date

3/19/2019

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