

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Jeffry Schneider

Case Number: 19-02407

vs.

Respondents
UBS Financial Services Inc.
CIBC World Markets Corp.

Hearing Site: New York, New York

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Associated Person vs. Members

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Jeffry Schneider: Tosh Grebenik, Esq., Judex Law LLC, Broomfield, Colorado.

For Respondent UBS Financial Services Inc.: Omar Perez, Esq., UBS Business Solutions US LLC, Nashville, Tennessee.

For Respondent CIBC World Markets Corp.: Elizabeth R. Aylett, Esq., CIBC World Markets Corp., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: August 21, 2019.

Jeffry Schneider signed the Submission Agreement: September 10, 2019.

Statement of Answer filed by Respondent UBS Financial Services Inc. on or about: October 18, 2019.

UBS Financial Services Inc. signed the Submission Agreement: September 16, 2019.

Statement of Answer filed by Respondent CIBC World Markets Corp. on or about: November 8, 2019.

CIBC World Markets Corp. signed the Submission Agreement: November 8, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of customer dispute information from registration records maintained by the Central Registration Depository (“CRD”).

In the Statement of Answer, Respondent UBS Financial Services Inc. did not oppose Claimant’s expungement request.

In the Statement of Answer, Respondent CIBC World Markets Corp. took no position on Claimant’s expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 795937, 660477 and 25885; and compensatory damages in the amount of \$1.00 from Respondents.

In the Statement of Answer, Respondent UBS Financial Service Inc. opposed Claimant’s request for compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent CIBC World Markets Corp. requested that the Panel deny the request for \$1.00 in damages and that pursuant to Rule 13805(d) of the FINRA Code of Arbitration Procedure for Industry Disputes, assess all forum fees and hearing sessions against Claimant.

At the hearing, Claimant withdrew the request for damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

On May 21, 2021, Claimant advised that the customers in Occurrence Numbers 795937, 660477 and 25885 were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded hearing by videoconference on June 3, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondents UBS Financial Services Inc. and CIBC World Markets Corp. did not participate in the expungement hearing.

The customers in Occurrence numbers 795937, 660477 and 25885 also did not participate in the expungement hearing. The Arbitrator found that the customers had notice of the expungement request and hearing.

The Arbitrator reviewed Claimant’s BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrences in the CRD.

The Arbitrator was unable to review the settlement documentation related to Occurrence Numbers 795937 and 25885 due to the length of time since the settlement was entered. The Arbitrator considered the amount of payment made to any party to the settlements. Based on Claimant's testimony, the Arbitrator noted that the settlements were not conditioned on any party to the settlements not opposing the expungement request and that Claimant did not contribute to the settlement amounts.

The Arbitrator was unable to review the settlement documentation related to Occurrence Number 660477 due to the length of time since the settlement was entered. The Arbitrator considered the amount of payment made to any party to the settlement. Based on the Claimant's testimony, the Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request. Claimant paid the settlement amount, but expungement is still warranted as the Arbitrator found that the contribution was deducted from Claimant's deferred compensation account and over Claimant's objection.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement 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 795937 from registration records maintained by the CRD for Claimant Jeffrey Schneider (CRD Number 2089051) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jeffrey Schneider 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 customer, who represented the group comprising the "customer", was an experienced and well-informed investor who traded in options and covered calls. Customer and Claimant met, and she told him she would tell him what trades to execute on her non-discretionary account.

The customer opened the account in 1998 and called Claimant almost daily for him to execute her wishes. Due to the large number of trades, Claimant was able to charge the

customer the lowest fee per trade CIBC would allow: \$75.00. On the trade confirmations CIBC sent the customer, Claimant checked off the "Unsolicited" box because he only executed her decisions.

After the bull market of the late 1990s, there was a major decline in April 2000. However, the customer did not order Claimant to sell. She filed a complaint alleging unsuitable recommendations, churning and unauthorized trading. CIBC settled the \$200,000.00 claim for \$53,500.00. Claimant did not contribute to that settlement.

Given the customer's method of trading, Claimant could neither recommend a trade, churn the account, nor make unauthorized trades.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 660477 from registration records maintained by the CRD for Claimant Jeffrey Schneider (CRD Number 2089051) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jeffrey Schneider 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 finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

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

The customer met Claimant at CIBC Oppenheimer ("CIBC") (as it was then named) in 1996/1997 and wanted to trade only in bonds. The customer opened a non-discretionary account. CIBC had a bonds inventory, which Claimant had to use. Claimant could not suggest any trade in a bond not in that inventory.

The customer bought some bonds, and then bought Singer Company Bonds. After some months, Singer, without warning, filed for bankruptcy and the bonds became worthless. In November 2000, the customer filed a complaint alleging inadequate advice about the Singer Company bonds. CIBC settled an \$18,000.00 claim for \$11,000.00 using some of Claimant's deferred compensation account to pay it.

The arbitrator finds that the customer's complaint of inadequate advice regarding the decline in his position in Singer Company bonds is clearly erroneous.

3. The Arbitrator recommends the expungement of all references to Occurrence Number 25885 from registration records maintained by the CRD for Claimant Jeffrey Schneider (CRD Number 2089051) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jeffrey Schneider 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 customer opened a non-discretionary account with Paine Webber in 1994. Claimant, as a registered representative (RR), could only recommend trades based on Paine Webbers’ analysts’ recommendations, and the relevant stock of ICOC was a “strong buy” recommendation. All contacts between the customer and Claimant were by telephone. The customer bought stock in ICOC and received a written confirmation of the trade, and a monthly statement of his trades. Claimant took no part in preparing these documents.

After two or three months, the ICOC stock price fell but Paine Webber’s analysts still called it a strong buy. Claimant sent the customer a copy of the analysts’ report. On June 24, 1994, Claimant left Paine Webber. In November 1994, the customer filed a complaint against Claimant. Paine Webber settled with the customer in the sum of \$10,000.00 on a claim for \$18,000.00. Claimant did not contribute to the settlement nor was he consulted before its conclusion.

The customer’s complaint alleged misrepresentation of ICOC and failure to respond to customer calls. Claimant established that he made no misrepresentation about ICOC, and that well before the customer filed a complaint, Claimant had left Paine Webber.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services 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 firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as parties, Respondents UBS Financial Services Inc. and CIBC World Markets Corp. are each 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, including a pre-hearing conference with the Arbitrator, which lasts four (4) hours or less. Fees associated with these proceedings are:

Five (5) pre-hearing sessions with a single Arbitrator @ \$50.00/session	= \$ 250.00
Pre-Hearing Conferences: January 6, 2020	1 session
January 20, 2020	1 session
June 2, 2020	1 session
October 27, 2020	1 session
May 4, 2021	1 session
One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing: June 3, 2021	1 session
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Total Hearing Session Fees	= \$ 300.00

The Arbitrator has assessed the total hearing session fees to Claimant.

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

ARBITRATOR

Clive I. Morricks

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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

Clive I. Morricks

Clive I. Morricks
Sole Public Arbitrator

06/09/2021

Signature Date

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

June 09, 2021

Date of Service (For FINRA Dispute Resolution Services use only)