

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Isidro Miramontes

Case Number: 19-03652

vs.

Respondent
UBS Financial Services Inc.

Hearing Site: Los Angeles, California

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. Member

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Isidro Miramontes (“Claimant”): David Harrison, Esq., Law Offices of David Harrison, P.C., Beverly Hills, California.

For Respondent UBS Financial Services Inc. (“Respondent”): Elizabeth H. Lindh, Esq. and Samantha Parrish, Esq., Keesal, Young & Logan, Long Beach, California.

CASE INFORMATION

Statement of Claim filed on or about: December 11, 2019.
Claimant signed the Submission Agreement: December 12, 2019.

Statement of Answer filed by Respondent on or about: January 30, 2020.
Respondent signed the Submission Agreement: February 5, 2021.

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 did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1189515 pursuant to FINRA Rule 2080; and
2. Compensatory damages in the amount of \$25.00 from Respondent.

In the Statement of Answer, Respondent requested that Claimant's request for compensatory damages be denied.

At the hearing, Claimant withdrew the request for \$25.00 in damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

On March 2, 2021, Claimant filed copies of letters sent to the customer in Occurrence Number 1189515 ("Customer"), including the Statement of Claim and notice of the date and time of the expungement hearing via FedEx, filed a copy of the FedEx delivery confirmation, and advised the Customer was served.

The Arbitrator conducted a recorded hearing by videoconference on March 23, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, did not oppose the request for expungement.

The Customer did not participate in the expungement hearing. The Arbitrator found that the Customer 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 occurrence in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Number 1189515, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request and that Claimant did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim; Respondent's Statement of Answer; Claimant's BrokerCheck® Report; Claimant's exhibits; the settlement agreement; and Claimant's closing binder.

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:

The Arbitrator recommends the expungement of all references to Occurrence Number 1189515 from registration records maintained by the CRD for Claimant Isidro Z. Miramontes (CRD Number 2670160) with the understanding that, pursuant to Notice to Members 04-16, Claimant Isidro Z. Miramontes 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 made numerous claims of mismanagement of his account, alleging that his losses were due to this mismanagement. During the period from June 1999 to January 2001, when Claimant was managing the Customer’s account, evidence presented at the hearing showed that all losses incurred during this period were either due to cash withdrawals by the Customer from the account or losses incurred due to market conditions, which were appropriate to the risk associated with the type of investments that were made with the Customer’s approval. The Customer’s account was shown to track the S&P 500 index very closely during this period.

Between January 2001 and June 2003, at which time the account was closed, it was managed by at least three other brokers, none of whom were named in the Customer’s complaint.

The Arbitrator finds the Customer’s allegations and version of events not supported by the evidence, and therefore, clearly erroneous. For these reasons, expungement of Claimant’s record is appropriate.

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
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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

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:

One (1) pre-hearing session with a single Arbitrator @ \$50.00/session = \$ 50.00
Pre-Hearing Conference: March 24, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: March 23, 2021 1 session

Total Hearing Session Fees = \$ 100.00

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

Robert Rosen

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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

Robert Rosen

Robert Rosen
Sole Public Arbitrator

04/12/2021

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.

April 13, 2021

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