

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Ricardo Eboli-Kodesh

Case Number: 20-01856

vs.

Respondents  
UBS Financial Services Incorporated of Puerto Rico  
UBS Financial Services, Inc.

Hearing Site: San Juan, Puerto Rico

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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

**REPRESENTATION OF PARTIES**

For Claimant Ricardo Eboli-Kodesh: Isabel Torres-Sastre, Esq. and Roberto C. Quinones, Esq., McConnell Valdes LLC, San Juan, Puerto Rico.

For Respondents UBS Financial Services Incorporated of Puerto Rico (“UBSPR”) and UBS Financial Services, Inc (“UBS”): Rey F. Medina Velez, Esq., UBS Financial Services Incorporated of Puerto Rico, San Juan, Puerto Rico.

**CASE INFORMATION**

Petition for Expungement filed on or about: June 11, 2020.  
Ricardo Eboli-Kodesh signed the Submission Agreement: June 1, 2020.

Response to Petition for Expungement filed by Respondents on or about: June 24, 2020.  
UBS Financial Services Incorporated of Puerto Rico signed the Submission Agreement: June 24, 2020.  
UBS Financial Services, Inc. signed the Submission Agreement: June 24, 2020.

**CASE SUMMARY**

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

In the Response to Petition for Expungement, Respondents stated that they do not oppose, and fully support, Claimant's request for expungement.

### **RELIEF REQUESTED**

In the Petition for Expungement, Claimant requested expungement of Occurrence Number 1853377 from his CRD records and compensatory damages in the amount of \$1.00 from Respondents.

In the Response to Petition for Expungement, Respondents did not specifically delineate a relief request.

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

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On May 26, 2020, prior to the filing of the Petition for Expungement in this matter, Claimant's counsel notified the customer in Occurrence Number 1853377 ("Customer") by email of Claimant's intent to file a petition to expunge Occurrence Number 1853377 from his CRD records. In his email responding to that notification (also dated May 26, 2020), the Customer's counsel advised Claimant's counsel that the Customer will neither oppose, nor participate in, the expungement proceedings.

Pursuant to the Arbitrator's October 15, 2020 Order, on November 25, 2020, Claimant advised that the Customer was served on November 23, 2020 with the Petition for Expungement and notice of the date and time of the expungement hearing. Neither the Customer nor the Customer's counsel responded this notification.

The Arbitrator conducted a recorded, telephonic hearing on February 10, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondents participated in the expungement hearing and, as stated in the Statement of Answer, fully supported 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 1853377, 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: Exhibit G to Claimant's Petition for Expungement, which is an email from Claimant to the Customer recommending diversification, and Exhibit H, which included specific investment recommendations.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and any post-hearing submissions, 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 1853377 from registration records maintained by the CRD for Claimant Ricardo Eboli-Kodesh (CRD Number 4313868) with the understanding that, pursuant to Notice to Members 04-16, Claimant Ricardo Eboli-Kodesh 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 false.

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

Claimant repeatedly recommended that the high net worth Customer in the underlying action, who, when he took over her account in August 2012, was initially 100% invested in Puerto Rican Closed End Funds ("PR CEFs"), diversify away from such concentration in PR CEFs. The Customer ignored Claimant's written and verbal advice. Contrary to Claimant's advice, the Customer chose to remain invested in the PR CEFs due to their high tax free income. Claimant recommended that Respondent diversify away from her existing PR CEFs and recommended that she instead purchase some US municipal bonds and some short term Puerto Rican bonds (see, e.g., Exhibit G to Petition for Expungement). Claimant thereafter made similar written recommendations (see, e.g., Exhibit H to Petition for Expungement). The Customer rejected Claimant's recommendations because if the Customer sold some of her existing PR CEFs, she would be sacrificing some income, which she deemed unacceptable. Additionally, the Customer's account history resulted in a net profit of about \$913,000.00 (after deducting the losses that she complained about in the underlying claim).

### **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 firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as parties, Respondents are each assessed the following:

Respondent UBSPR  
Member Surcharge = \$ 150.00

Respondent UBS  
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: October 15, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00  
Hearing: February 10, 2021 1 session

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Total Hearing Session Fees = \$ 100.00

Pursuant to the parties' agreement, the Arbitrator has assessed the total hearing session fees jointly and severally to Respondents.

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

**ARBITRATOR**

Christopher J. Klein

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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**

***Christopher J. Klein***

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Christopher J. Klein  
Sole Public Arbitrator

**02/18/2021**

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Signature Date

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February 18, 2021

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