

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

---

In the Matter of the Arbitration Between:

Claimant  
Anita Marie D'Aguilar

Case Number: 20-02009

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

This case was administered under the Special Proceeding option for simplified cases.

**REPRESENTATION OF PARTIES**

For Claimant Anita Marie D'Aguilar ("Claimant"): Tosh Grebenik, Esq., Judex Law, LLC, Broomfield, Colorado.

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

**CASE INFORMATION**

Statement of Claim filed on or about: June 24, 2020.  
Claimant signed the Submission Agreement: June 24, 2020.

Statement of Answer filed on or about: August 4, 2020.  
Respondent signed the Submission Agreement: July 20, 2020.

**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 1345824 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous and FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false; and
2. Compensatory damages in the amount of \$1.00 from Respondent.

In the Statement of Answer, Respondent objected to Claimant's request for compensatory damages in the amount of \$1.00.

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.

The Claim Notification letter dated July 17, 2020 notified Respondent that FINRA rules require parties to use the online DR Portal on a mandatory basis (except pro se investors) and that failure to register for the DR Portal will prevent the submission of pleadings, selection of arbitrators, and receipt of notification relating to case information and deadlines. Respondent failed to register for the DR Portal.

On May 26, 2021, Claimant advised that the customer in Occurrence Number 1345824 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on May 27, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing.

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 was unable to review the settlement documentation related to Occurrence Number 1345824. The Arbitrator noted that, upon diligent search, the settlement documents could not be produced due to the age of the complaint. The Arbitrator considered the amount of payments made to any party to the settlement and, based upon Claimant's testimony and her affidavit filed on June 3, 2021, noted that the settlement was not conditioned upon any party to the settlement not opposing the expungement request. The Arbitrator noted that Claimant did not contribute to the settlement amount. The Arbitrator also noted that the date of the settlement preceded the effective date of the rule against conditioned settlements.

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

### **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:

The Arbitrator recommends the expungement of all references to Occurrence Number 1345824 from registration records maintained by the CRD for Claimant Anita Marie Daguilar (CRD Number 1726303) with the understanding that, pursuant to Notice to Members 04-16, Claimant Anita Marie Daguilar 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:

Based upon the pleadings, Claimant's exhibits, and sworn testimony of Claimant and witness, Mr. M, the Arbitrator has determined that the claim, allegation, and information submitted by the Customer is completely false. It is clear that the Customer's self-serving claim that he had asked Claimant not to submit the documents which the Customer signed is completely inconsistent with the Customer's documentation, stated intention and conduct in order for the Customer to purchase the investment. Accordingly, expungement is recommended pursuant to Rule 2080(b)(1)(C).

### **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 a party, Respondent is assessed the following:

Member Surcharge = \$ 150.00

**Postponement Fees**

Postponements granted during these proceedings for which fees were assessed or waived:

May 25, 2021, postponement requested by Claimant = \$ Waived

**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: November 13, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00  
Hearing: May 27, 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 D. Sussin

-

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 D. Sussin***

Robert D. Sussin  
Sole Public Arbitrator

**06/22/2021**

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 23, 2021

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