

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Jason Erik Stephens

Case Number: 20-02148

vs.

Respondent
UBS Financial Services Inc.

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Claimant Jason Erik Stephens: Harris Freedman, Esq. and Zachary Morse, Esq., Of Counsel, HLBS Law, Westminster, Colorado.

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

CASE INFORMATION

Statement of Claim filed on or about: July 7, 2020.

Jason Erik Stephens signed the Submission Agreement: July 7, 2020.

Statement of Answer filed by Respondent on or about: August 1, 2020.

UBS Financial Services Inc. signed the Submission Agreement: July 10, 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 request for expungement and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 1994501; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deemed just and equitable.

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

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 or about December 15, 2020 and May 12, 2021, Claimant advised that the customer in Occurrence Number 1994501 ("Customer") was served with a copy of the Statement of Claim, notice of the date and time of the expungement hearing and of the Customer's right to participate therein. On or about December 22, 2020 and May 17, 2021, Claimant filed with FINRA Dispute Resolution Services Affidavits of Service, along with proof of service via FedEx upon the Customer, advising that the Customer was served with a copy of the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on June 21, 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 also 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 noted that the dispute related to Occurrence Number 1994501 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Submission of Expungement Hearing Exhibits; Claimant's BrokerCheck® Report; and Claimant's Affidavits of Service, along with proof of service via FedEx upon the Customer.

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 1994501 from registration records maintained by the CRD for Claimant Jason Erik Stephens (CRD Number 3053046) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jason Erik Stephens 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.

The claim, allegation, or information is false.

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

The following summarizes testimony taken by the Arbitrator and relevant portions of documents submitted into evidence during the expungement hearing.

Claimant is currently employed as a financial advisor with Respondent. Claimant has been employed with Respondent for over fourteen (14) years. The Statement of Claim is for expungement of one customer complaint, Occurrence Number 1994501. At the time the complaint was made, Claimant and the Customer were going through a divorce.

The Customer is the ex-wife of Claimant. Claimant recommended various accounts to the Customer that were attractive at the time based on her goals and investment tolerances. The Customer opened accounts with Claimant at the time in 2007 and received monthly statements and information. Over the course of ten (10) years, Claimant testified that the Customer signed over ten (10) forms for distributions. The Customer was aware of the accounts and investments. Also, the Customer’s father was a financial advisor on the account and he never complained to Claimant. The Customer then complained about the UBS Distressed Opportunity Fund II, LLC (“Opportunity Fund”). This account was approximately five percent (5%) of her total investments according to Claimant.

Respondent investigated the complaint and determined there was no basis and it was denied. There was no payment to the Customer. On September 8, 2018, the Customer sent an email to FINRA, stating that Claimant had not engaged in the misconduct that the Customer alleged and that the Customer was withdrawing her complaint against Claimant. Claimant did not participate in any settlement, as the complaint was withdrawn with prejudice. Claimant also testified that the divorce was not contingent on withdrawal of the complaint by the Customer.

Respondent does not dispute or oppose the expungement of this case. Respondent did not participate in the expungement hearing.

Claimant advised that the Customer was served with notice of the date and time of the expungement hearing. Also, Claimant filed proof of service via FedEx upon the Customer, which was admitted into evidence. The Customer did not participate in the expungement hearing.

In conclusion, the Arbitrator agreed that the burden has been met based on Claimant’s testimony, Claimant’s Submission of Expungement Hearing Exhibits, Claimant’s

BrokerCheck® Report and Claimant's Affidavits of Service, along with proof of service via FedEx upon the Customer. The Customer filed her complaint during the divorce and then withdrew the complaint as the misconduct alleged did not happen. Claimant's testimony was credible and uncontroverted.

Claimant's request for expungement as to Occurrence Number 1994501 is granted based on FINRA Rules 2080(b)(1)(A) and 2080(b)(1)(C).

2. Any and all claims for relief not specifically addressed herein are denied.

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
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Postponement Fees

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

January 26, 2021, postponement requested by Claimant	= \$	WAIVED
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Total Postponement Fees	= \$	WAIVED
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The Arbitrator has waived the postponement fees in connection with the January 26, 2021 hearing.

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 4, 2020	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: June 21, 2021	1 session	

Total Hearing Session Fees	= \$	100.00
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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

Kimberly A. Gilmour

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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

Kimberly A. Gilmour

Kimberly A. Gilmour
Sole Public Arbitrator

06/23/2021

Signature Date

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June 23, 2021

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