

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

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In the Matter of the Arbitration Between:

Claimant  
Angel M. Canabal

Case Number: 20-02264

vs.

Respondent  
UBS Financial Services Incorporated  
of Puerto Rico

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. Member

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

**REPRESENTATION OF PARTIES**

For Claimant Angel M. Canabal: Sonia M. López del Valle, Esq. and Roberto Quinones-Rivera, Esq., McConnell Valdés LLC, San Juan, Puerto Rico.

For Respondent UBS Financial Services Incorporated of Puerto Rico: 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: July 17, 2020.  
Angel M. Canabal signed the Submission Agreement: July 17, 2020.

Response to Petition for Expungement filed by Respondent on or about: August 3, 2020.  
UBS Financial Services Incorporated of Puerto Rico signed the Submission Agreement:  
August 3, 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, Respondent supported Claimant's expungement request.

### **RELIEF REQUESTED**

In the Petition for Expungement, Claimant requested expungement of Occurrence Number 1926668 and \$1.00 in compensatory damages.

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

At the close of 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.

Prior to filing the Petition for Expungement, Claimant notified the underlying customer's (the "Customer") counsel, via email, of his intent to request expungement of this matter from his CRD records. On or about May 15, 2019, counsel for the Customer advised Claimant, via email, that the Customer would remain neutral in this matter, but wanted to be copied on all correspondence going forward in order to object to the extent the Customer deemed necessary.

On November 12, 2020, Claimant advised that counsel for the Customer in Occurrence Number 1926668 was served, via certified mail, with the Petition for Expungement and notice of the date and time of the expungement hearing. The USPS Tracking System reflects delivery of this mailing on November 16, 2020 at 1:36 p.m. Counsel for the Customer did not respond to this notification.

The Arbitrator conducted a recorded, telephonic hearing on January 20, 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 Response to Petition for Expungement, 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 documents, considered the amount of payments 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 BrokerCheck® Report; the Customer's initial Statement of Claim against Respondent; documentation regarding settlement of the Customer's claim; and Claimant's testimony regarding the facts and circumstances giving rise to the Customer's claim.

### **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 1926668 from registration records maintained by the CRD for Claimant Angel M. Canabal (CRD Number 2180310) with the understanding that, pursuant to Notice to Members 04-16, Claimant Angel M. Canabal 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 registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and

The claim, allegation, or information is false.

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

After the Customer's father's death, the portfolio was inherited, in part, by the Customer. Claimant explained to the Customer the volatility of the funds that the Customer's father had invested in and Claimant recommended diversification, which the Customer failed to fully follow.

The Customer was a sophisticated investor ("aggressive risk" profile on portions of the Customer's account documents) with a heavy concentration in Puerto Rican securities due to their tax advantage for Puerto Rican residents. Respondent provided "investment alternatives" (open end funds) to reduce the exposure to the Puerto Rican exclusive securities, which still met the tax benefits for Puerto Rican residents. The Customer continued on an aggressive path, which ultimately resulted in his losses.

The Statement of Claim filed by the Customer against Respondent was incorrect in its allegation as it relates to Claimant, as the Customer continued to maintain a "high

risk/high reward" posture in his accounts. What is especially telling is that (to this date) the Customer continues to maintain a large account with Claimant at Respondent.

### **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

#### **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 the Arbitrator @ \$50.00/session = \$ 50.00  
Pre-hearing Conference: November 9, 2020 1 session

= \$ 50.00

One (1) hearing session on expungement request @ \$50.00/session  
Hearing Date: January 20, 2021 1 session

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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**

Louis David Huss

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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**

***Louis David Huss***

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Louis David Huss  
Sole Public Arbitrator

**01/25/2021**

\_\_\_\_\_  
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.

January 25, 2021

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