

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Debra Ann Bushman

Case Number: 20-02376

vs.

Respondent
UBS Financial Services Inc.

Hearing Site: New York, New York

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 Debra Ann Bushman: Bradley D. Schnur, Esq., Law Office of Bradley D. Schnur, Esq. P.C., Jericho, New York.

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

CASE INFORMATION

Amended Statement of Claim filed on or about: August 21, 2020.
Debra Ann Bushman signed the Submission Agreement: July 15, 2020.

Statement of Answer filed by Respondent on or about: September 13, 2020.
UBS Financial Services Inc. signed the Submission Agreement: August 24, 2020.

CASE SUMMARY

In the Amended 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 Amended Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1863631 and 1368800; compensatory damages in the amount of \$1.00 from Respondent; and

any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent did not set forth a specific relief request.

OTHER ISSUES CONSIDERED AND DECIDED

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

A Statement of Claim was filed on July 27, 2020. It was not served on Respondent and not considered by the Arbitrator.

Claimant provided an Affidavit dated May 6, 2021, stating that Claimant was unable to serve the Amended Statement of Claim and the notice of expungement on the customer related to Occurrence Number 1368800 since the customer is deceased. The customer was therefore not provided a copy of the Statement of Claim and did not participate in the expungement hearing.

On June 24, 2021, Claimant advised that the customer in Occurrence Number 1863631 was served with the Amended Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted recorded, telephonic hearings on May 7, 2021, June 4 and 8, 2021, and July 12, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

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

The customers also did not participate in the expungement hearing. The Arbitrator found that the customers 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 occurrences in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Number 1863631, 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.

The Arbitrator noted that the dispute related to Occurrence Number 1368800 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 BrokerCheck® Report, the pleadings, Claimant's testimony, and the exhibits.

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. Claimant's claim for \$1.00 in compensatory damages is denied.
2. The Arbitrator recommends the expungement of all references to Occurrence Number 1863631 from registration records maintained by the CRD for Claimant Debra Ann Bushman (CRD Number 870056) with the understanding that, pursuant to Notice to Members 04-16, Claimant Debra Ann Bushman 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 findings based on the following reasons:

The customer alleged that the purchase of Puerto Rico bonds was not authorized. Claimant successfully demonstrated that the customer had received written and oral notifications about the purchase of the bonds in question for several years before the complaint was made. Claimant also successfully demonstrated that at no time during this several years' period did the client object to the purchase of the bonds. Finally, Claimant successfully demonstrated that she was not a party to the settlement agreement between the brokerage firm and the client.

3. The Arbitrator recommends the expungement of all references to Occurrence Number 1368800 from registration records maintained by the CRD for Claimant Debra Ann Bushman (CRD Number 870056) with the understanding that, pursuant to Notice to Members 04-16, Claimant Debra Ann Bushman 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 issue raised by the customer was an allegation of malpractice in the management of his investments. Claimant successfully demonstrated that the customer could not provide any evidence of malpractice; that the brokerage fully investigated the customer's claim and found them to be without merit; and that the accounts in question were profitable.

4. 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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent UBS Financial Services Inc. 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:

February 4, 2021, postponement requested by Claimant	= \$	50.00
March 24, 2021, postponement requested by Claimant	= \$	50.00
April 20, 2021, postponement requested by Claimant	= \$	50.00

Total Postponement Fees	= \$	150.00
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The Arbitrator has assessed the total postponement fees to Claimant.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

February 4, 2021, cancellation requested by Claimant	= \$	600.00
March 24, 2021, cancellation requested by Claimant	= \$	600.00
April 20, 2021, cancellation requested by Claimant	= \$	600.00

Total Last-Minute Cancellation Fees	= \$	1,800.00
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The Arbitrator has assessed the total last-minute cancellation fees to Claimant.

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: December 8, 2020	1 session	
Four (4) hearing sessions on expungement request @ \$50.00/session	= \$	200.00
Hearings: May 7, 2021	1 session	
June 4, 2021	1 session	
June 8, 2021	1 session	
July 12, 2021	1 session	
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Total Hearing Session Fees	= \$	250.00

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

Eric Goldman

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Arbitrator's Signature

Eric Goldman

Eric Goldman
Sole Public Arbitrator

07/19/2021

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.

July 19, 2021

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