

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Everett Weinberger

Case Number: 20-02655

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

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Everett Weinberger: Jennifer P. Farrar, Esq., Farrar Law, PLLC, Tomball, Texas.

For Respondent UBS Financial Services Inc.: John Murphy, Esq., John Murphy & Associates, P.C., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: September 25, 2020.

Everett Weinberger signed the Submission Agreement: August 6, 2020.

Statement of Answer filed by Respondent on or about: October 13, 2020.

UBS Financial Services Inc. signed the Submission Agreement: September 28, 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: expungement of Occurrence Number 1592042;

compensatory damages in the amount of \$1.00 from the Respondent; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent objected to Claimant's request for \$1.00 in damages and requested that the Arbitrator assess all costs and fees solely against the Claimant.

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 August 18, 2020. It was not served on Respondent and not considered by the Arbitrator.

On May 4, 2021, Claimant advised of a scrivener's error in the Statement of Claim dated September 25, 2020. The reference to Occurrence Number 1592042 in the Statement of Claim is a scrivener's error, which should be corrected to read Occurrence Number 1889906.

On April 20, 2021, Claimant advised that the customer in Occurrence Number 1889906 was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded hearing by videoconference on April 26, 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 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 1889906 was not settled and, therefore, there were no settlement documents to review.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the recorded 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 in entirety.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1889906 from registration records maintained by the CRD for Claimant Everett Weinberger (CRD Number 1559457) with the understanding that, pursuant to Notice to Members 04-16, Claimant Everett Weinberger 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; and the claim, allegation, or information is false.

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

Considering the customer's recantation, the credible testimony of the Claimant, and the documents admitted into evidence in support of the request for relief, the arbitrator finds that the claim, allegation, or information is clearly erroneous and that the claim, allegation, or information is false. The investment identified was in fact appropriate for the customer and quite successful. There was no basis for a complaint, as the customer acknowledged.

3. 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:

ARBITRATOR

Jay Alan Kranis

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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

Jay Alan Kranis

Jay Alan Kranis
Sole Public Arbitrator

05/06/2021

Signature Date

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May 06, 2021

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