

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

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In the Matter of the Arbitration Between:

Claimant  
Jeffrey Rodriguez-Aponte

Case Number: 20-02742

vs.

Respondent  
UBS Financial Services, Inc.

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

**REPRESENTATION OF PARTIES**

For Claimant Jeffrey Rodriguez-Aponte: Robert L. Herskovits, Esq., Herskovits PLLC, New York, New York.

For Respondent UBS Financial Services, Inc.: Sonia M. Lopez del Valle, Esq., McConnell, Valdes LLC, San Juan, Puerto Rico.

**CASE INFORMATION**

Statement of Claim filed on or about: August 21, 2020.

Jeffrey Rodriguez-Aponte signed the Submission Agreement: August 21, 2020.

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

UBS Financial Services Inc. signed the Submission Agreement: August 24, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted a claim seeking expungement of 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 Numbers 1614914, 1881833, 1970269, 2031927, and all associated disclosures on the CRD; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deems just and proper.

In the Statement of Answer, Respondent did not delineate a relief request.

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 December 22, 2020, the Arbitrator issued an Order that, among other things, directed Claimant to serve the underlying customers in Occurrence Numbers 1614914, 1881833, 1970269, and 2031927 (the "Customers") with a copy of the Statement of Claim and notice of the date and time of the expungement hearing, as well as their right to participate therein.

On or about January 19, 2021, in compliance with the Arbitrator's December 22, 2020 Order, Claimant sent notice to counsel for each of the underlying customers in Occurrence Numbers 1614914, 1881833, 1970269, and 2031927. Counsel for the underlying customer in Occurrence Number 1881833 responded by advising that they would not be participating in this proceeding. No other responses to Claimant's notice were received.

The Arbitrator conducted a recorded telephonic hearing on February 8, 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 Statement of Answer, did not oppose Claimant's request for expungement.

None of the Customers participated 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 Numbers 1614914, 1881833, 1970269, and 2031927, considered the amount of payment made to any party to the settlements, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on any party to the settlements not opposing the expungement request and that Claimant did not contribute to the settlement amounts.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence with respect to each Occurrence: Claimant's testimony as well as the Customers' Statements of Claim, Respondent's Answers, and the settlement documents.

### **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 Numbers 1614914, 1881833, 1970269 and 2031927 from registration records maintained by the CRD for Claimant Jeffrey Rodriguez-Aponte (CRD Number 4638012) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jeffrey Rodriguez-Aponte 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 with respect to Occurrence Numbers 1881833, 1970269 and 2031927:

The claim, allegation, or information is factually impossible or clearly erroneous; and

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The Arbitrator has made the above Rule 2080 findings as to Occurrence Numbers 1881833, 1970269 and 2031927 based on the following reasons:

Claimant left the employment of Respondent and ceased serving as financial advisor to the Customers approximately three years before any of the claims originated, and while the customers' portfolios were managed by other financial advisors. More specifically, Claimant did not make any investment recommendations for these customers while serving as their financial advisor.

Pursuant to Rule 13805 of the Code of Arbitration Procedure ("Code"), the Arbitrator has made the following Rule 2080 affirmative finding of fact with respect to Occurrence Number 1614914:

The claim, allegation, or information is factually impossible or clearly erroneous.

The Arbitrator has made the above Rule 2080 finding as to Occurrence Number 1614914 based on the following reasons:

Claimant made only one investment recommendation for the Customers while serving as their financial advisor between the years of 2007 and 2009, which the Arbitrator determined was suitable based upon the Customers' risk tolerance at the time of purchase.

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

*\*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 a single Arbitrator @ \$50.00/session = \$ 50.00  
Pre-Hearing Conference: December 22, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00  
Hearing: February 8, 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**

Gerald Silverman

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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**

***Gerald Silverman***

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Gerald Silverman  
Sole Public Arbitrator

**02/19/2021**

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Signature Date

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February 19, 2021

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