

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Kirk Louis Mandlin

Case Number: 20-02991

vs.

Respondent
UBS Financial Services Inc.

Hearing Site: San Francisco, California

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 Kirk Louis Mandlin (“Claimant”): Chelsea Masters, Esq., and Frederick Steimling, Esq., HLBS Law, Westminster, Colorado.

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

CASE INFORMATION

Statement of Claim filed on or about: September 3, 2020.
Claimant signed the Submission Agreement: September 3, 2020.

Statement of Answer filed by Respondent on or about: October 12, 2020.
Respondent signed the Submission Agreement: September 16, 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:

1. Expungement of Occurrence Number 1460765 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous;
2. Expungement of Occurrence Number 1460765 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(B), as Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds;
3. Expungement of Occurrence Number 1460765 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
4. Deletion of all Disclosure Reporting Pages accompanying Occurrence Number 1460765;
5. Compensatory damages in the amount of \$1.00 from Respondent; and
6. 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 all costs and fees associated with the claim be assessed solely against Claimant.

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 March 23, 2021, Claimant advised that the customers in Occurrence Number 1460765 ("Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing. On March 30, 2021, Claimant filed an Affidavit confirming that the Customers were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on May 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.

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 occurrence in the CRD.

The Arbitrator noted that the dispute related to Occurrence Number 1460765 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: pleadings; Claimant's BrokerCheck® Report; and Claimant's testimony.

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 1460765 from registration records maintained by the CRD for Claimant Kirk Louis Mandlin (CRD Number 2201744) with the understanding that, pursuant to Notice to Members 04-16, Claimant Kirk Louis Mandlin 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 finding based on the following reasons:

Claimant was the office manager, and when the Customers complained about the handling of their account by their broker, they also alleged that the broker was not appropriately supervised, and that is why Claimant had the report added to his U4. The Customers' allegations were false and clearly erroneous. The broker's handling of the account was appropriate. The Customers had worked with this broker for years and moved their account to Respondent when he joined Respondent. The Customers only complained when they lost money due to the market conditions in 2008-2009. Respondent investigated the complaint and determined there was no wrongdoing and the Customers did not pursue the complaint. There was no settlement money paid and no arbitration claim was filed. Claimant was a very thorough supervisor and took his compliance duty very seriously. He put systems in place to monitor the brokers who reported to him and he fully followed through on his responsibilities.

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
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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 16, 2020	1 session	

One (1) hearing session on expungement request @ 50.00/session	= \$	50.00
Hearing: May 12, 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

Helen Marinak Blohm

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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

Helen Marinak Blohm

Helen Marinak Blohm
Sole Public Arbitrator

05/25/2021

Signature Date

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May 25, 2021

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