

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Andrew William Arnold

Case Number: 20-03035

vs.

Respondent
UBS Financial Services Inc.

Hearing Site: Louisville, Kentucky

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 Andrew William Arnold (“Claimant”): Brian Luther, Esq., FA Expungement, LLC, Denver, Colorado.

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

CASE INFORMATION

Statement of Claim filed on or about: September 8, 2020.
Claimant signed the Submission Agreement: September 6, 2020.

Statement of Answer filed on or about: September 13, 2020.
Respondent signed the Submission Agreement: September 8, 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 denied any wrongdoing but did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1204903 and an award of compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent opposed Claimant's request for compensatory damages.

At the hearing, Claimant withdrew the request for \$1.00 in compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

On January 22, 2021, Claimant filed the obituary for the customer in Occurrence Number 1204903 ("Customer"). Claimant advised that the estate of the Customer was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). On February 5, 2021, Claimant filed a copy of the USPS tracking information available online for the Notice.

The Arbitrator conducted a recorded, telephonic hearing on March 3, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing.

No representative from the Customer's estate participated in the expungement hearing. The Arbitrator found that the Customer's estate 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 documentation related to Occurrence Number 1204903, 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.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony and the settlement agreement.

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:

The Arbitrator recommends the expungement of all references to Occurrence Number 1204903 from registration records maintained by the CRD for Claimant Andrew William

Arnold (CRD Number 2424616) with the understanding that, pursuant to Notice to Members 04-16, Claimant Andrew William Arnold 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:

Claimant testified that he discussed the purchase of stock with the Customer, as well as the Customer’s risk tolerance and investment goals. Based on Claimant’s testimony, which the Arbitrator found to be credible, the Arbitrator finds that the purchase of stock was suitable.

Claimant also testified that the Customer was invested in a certificate of deposit (“CD”) which paid no income. The Customer wanted to move a portion of her investment to a product that paid some dividends. The Customer authorized the trade, which was done while Claimant was out of the office by an associate. Two weeks later, the Customer and her son wanted to reverse the sale of the CD. At that time, it was too late to undo the trade. Based on Claimant’s testimony, which the Arbitrator found to be credible, the Arbitrator finds that the sale was authorized by the Customer.

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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge Fee = \$ 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 @ \$50.00/session		= \$	50.00
Pre-Hearing Conference: December 30, 2020	1 session		
One (1) hearing session on expungement request @ \$50.00/session		= \$	50.00
Hearing: March 3, 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

James A. McIntosh

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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

James A. McIntosh

James A. McIntosh
Sole Public Arbitrator

03/11/2021

Signature Date

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March 11, 2021

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