

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Anita M. Brennan
Marina Sonya Tudela

Case Number: 20-03172

vs.

Respondents

UBS Financial Services, Inc.
UBS Financial Services Incorporated of Puerto Rico

Hearing Site: San Juan, Puerto Rico

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 Persons vs. Members

REPRESENTATION OF PARTIES

For Claimants Anita M. Brennan (“Brennan”) and Marina Sonya Tudela (“Tudela”):
Leslie Flores, Esq. and Roberto C. Quiñones-Rivera, Esq., McConnell Valdés, LLC, San Juan, Puerto Rico.

For Respondents UBS Financial Services, Inc. (“UBS”) and UBS Financial Services Incorporated of Puerto Rico (“UBSPR”): Rey F. Medina Vélez, Esq., UBS Financial Services Incorporated of Puerto Rico, San Juan, Puerto Rico.

CASE INFORMATION

Statement of Claim filed on or about: September 11, 2020.
Claimant Brennan signed the Submission Agreement: June 23, 2020.
Claimant Tudela signed the Submission Agreement: June 23, 2020.

Statement of Answer filed by Respondents on or about: October 22, 2020.
Respondent UBS signed the Submission Agreement: September 16, 2020.
Respondent UBSPR signed the Submission Agreement: September 16, 2020.

CASE SUMMARY

In the Statement of Claim, Claimants asserted a claim seeking expungement of customer dispute information from registration records maintained by the Central Registration Depository (“CRD”).

In the Statement of Answer, Respondents supported Claimants' expungement requests.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested: expungement of Occurrence Number 1969166 from Claimant Brennan's CRD and Occurrence Number 1969741 from Claimant Tudela's CRD; that their good names and reputations be restored, and that the Arbitrator makes a finding that all references to the action be expunged for their CRD Records; and \$1.00 in compensatory relief from Respondents.

In the Statement of Answer, Respondents requested that a finding should be entered by the presiding Arbitrator in favor of Claimants.

At the hearing, Claimants 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 July 23, 2021, Claimants advised that the customer in Occurrence Numbers 1969166 and 1969741 ("Customer") was 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 August 3, 2021, so the parties could present oral argument and evidence on Claimants' requests for expungement.

Respondents participated in the expungement hearing and as stated in the Statement of Answer, supported the requests for expungement.

The Customer did not participate in the expungement hearing. The Arbitrator found that the Customer had notice of the expungement requests 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 1969166 and 1969741, 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 requests and that Claimants did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the various exhibits submitted into evidence by Claimants, specifically supplemental Exhibit K.

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 1969166 and 1969741 from registration records maintained by the CRD for Claimant Anita M. Brennan (CRD Number 858500) and Claimant Marina Sonya Tudela (CRD Number 2269112), respectively, with the understanding that, pursuant to Notice to Members 04-16, Claimant Anita M. Brennan and Claimant Marina Sonya Tudela 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 evidence showed that the Customer in the underlying dispute (Case Number 18-00213) was a sophisticated investor who had high cash flow needs and was interested in owning tax advantaged Puerto Rican Closed End Funds (“CEFs”) and Puerto Rican bonds. The evidence showed that these investments offered high yields and were tax free to Puerto Rican residents, such as the Customer. Claimants, the Customer’s financial advisors, repeatedly recommended that the Customer diversify away from Puerto Rican CEFs and bonds. Claimants recommended equities and other investments that would still be tax advantaged for Puerto Rican residents, but the Customer needed cash and did not completely follow their advice. Neither Claimant Brennan nor Claimant Tudela were named in the underlying claim filed by the Customer, and neither participated in the underlying settlement. The allegations made by the Customer were factually impossible or clearly erroneous insofar as they pertained to the Claimants, and therefore the Arbitrator recommends expungement of this matter from the CRD Records of both Claimant Brennan (Occurrence Number 1969166) and Claimant Tudela (Occurrence Number 1969741).

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
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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 firms that employed the associated persons at the time of the event giving rise to the dispute. Accordingly, as parties, Respondents are each 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:

May 5, 2021, postponement requested by the Parties	=\$	50.00
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Total Postponement Fees	=\$	50.00
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The Arbitrator has assessed the total postponement fees jointly and severally to Respondents, per the Parties' agreement.

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: January 5, 2021	1 session	

One (1) hearing session on expungement request @ \$50.00/session	=\$	50.00
Hearing: August 3, 2021	1 session	

Total Hearing Session Fees	=\$	100.00
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The Arbitrator has assessed the total hearing session fees jointly and severally to Respondents, per the Parties' agreement.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATOR

Christopher J. Klein

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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

Christopher J. Klein

Christopher J. Klein
Sole Public Arbitrator

08/10/2021

Signature Date

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August 10, 2021

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