

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

James Malcom Ugobono

Case Number: 20-03186

vs.

Respondents

UBS Financial Services Inc.
UBS Financial Services Incorporated of Puerto Rico
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 Person vs. Members

REPRESENTATION OF PARTIES

For Claimant James Malcom Ugobono: Isabel Torres-Sastre, Esq. and Roberto C. Quinones, Esq., McConnell Valdes LLC, San Juan, Puerto Rico.

For Respondents UBS Financial Services Inc. (“UBS”), and UBS Financial Services Incorporated of Puerto Rico (“UBSPR”), hereinafter collectively referred to as “Respondents”: 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.

James Malcom Ugobono signed the Submission Agreement: September 10, 2020.

Statement of Answer filed by Respondents on or about: October 22, 2020.

UBS signed the Submission Agreement: September 16, 2020.

UBSPR 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, Respondents supported Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1689465, and compensatory damages in the amount of \$1.00 from Respondent.

In the Statement of Answer, Respondents also requested expungement of Occurrence Number 1689465 from Claimant's CRD records.

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 May 17, 2021, Claimant filed with FINRA Dispute Resolution Services a Declaration Under Penalty of Perjury confirming that the customer in Occurrence Number 1689465 ("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 May 20, 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, supported the request for expungement.

The Customer 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 also reviewed the settlement documentation related to Occurrence Number 1689465, 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: the Customer's complaint and Respondents' Answer in the underlying arbitration; the settlement documents relating to the underlying arbitration; Claimant's BrokerCheck® Report; executive summaries prepared by Respondents; and the Customer's account statements at both Respondents and Unnamed Party Santander.

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 1689465 from registration records maintained by the CRD for Claimant James Malcom Ugobono (CRD Number 4032530) with the understanding that, pursuant to Notice to Members 04-16, Claimant 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 registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The claim, allegation, or information is false.

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

Claimant here seeks expungement of a matter where he was not a party, not the financial advisor nor the brokerage firm that ultimately caused most of the Customer's losses. Though Claimant had recommended some diversified Puerto Rico bonds and closed end Puerto Rico based funds, the Customer's losses came well after the Customer moved his account to another brokerage firm and financial advisor and after the Customer had apparently leveraged a large part of his portfolio (in which Claimant had no involvement and did not recommend). Claimant was not a named party in the Customer's underlying arbitration claim, did not participate in the settlement, and did not contribute to same.

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 parties, Respondents UBS and UBSPR are each assessed the following:

Member Surcharge = \$ 150.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

March 25, 2021, joint postponement request by Claimant and Respondents = \$ 50.00

Total Postponement Fee = \$ 50.00

Pursuant to the parties' agreement, the Arbitrator has assessed the entire postponement fee jointly and severally to Respondents.

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 13, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: May 20, 2021 1 session

Total Hearing Session Fees = \$ 100.00

Pursuant to the parties' agreement, the Arbitrator has assessed the total hearing session fees jointly and severally to Respondents.

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

ARBITRATOR

Louis David Huss

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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

Louis David Huss

Louis David Huss
Sole Public Arbitrator

05/21/2021

Signature Date

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May 21, 2021

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