

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

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In the Matter of the Arbitration Between:

Claimant  
David Ruckno

Case Number: 20-03197

vs.

Respondent  
UBS Financial Services, Inc.

Hearing Site: Columbia, South Carolina

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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 David George Ruckno: Mark Simms, Esq., Simms Law, PA, Fort Lauderdale, Florida.

For Respondent UBS Financial Services, Inc.: John Murphy, Esq., John Murphy & Associates, PC, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: September 11, 2020.  
David Ruckno signed the Submission Agreement: September 11, 2020.

Statement of Answer filed by Respondent on or about: October 13, 2020.  
UBS Financial Services, Inc. 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 stated that it does not object to Claimant’s expungement request and would not be participating in this proceeding.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1515015

and 1621429 and compensatory damages in the amount of \$1.00 from Respondent.

In the Statement of Answer, Respondent requested that Claimant's request for \$1.00 be denied.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On May 20, 2021, Claimant advised that the customers in Occurrence Numbers 1515015 and 1621429 ("Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing. The USPS tracking system reflects delivery to the Customer in Occurrence Number 1621429 on May 21, 2021 at 10:10 a.m., and the Customer in Occurrence Number 1515015 on May 22, 2021 at 12:17 p.m.

The Arbitrator conducted a recorded, telephonic hearing on July 8, 2021 so the parties could present oral argument and evidence on Claimant's request for expungement.

As set forth in its Statement of Answer, Respondent did not participate in the expungement hearing.

The Customer in Occurrence Number 1621429 participated in the expungement hearing and testified that she is still an active client of Claimant.

The Customer in Occurrence Number 1515015 did not participate in the expungement hearing.

The Arbitrator found that the Customers in both Occurrence Numbers 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 1515015 and 1621429, 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: all of the pleadings; the Settlement Agreements; Claimant's testimony; the testimony of the Customer in Occurrence Number 1621429, who stated that she is still an active client of Claimant; and Respondent's support of the expungement request.

### **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. Claimant's claim for \$1.00 in compensatory damages is denied.
2. The Arbitrator recommends the expungement of all references to Occurrence Numbers 1515015 and 1621429 from registration records maintained by the CRD for Claimant David Ruckno (CRD Number 3053803) with the understanding that, pursuant to Notice to Members 04-16, Claimant David Ruckno 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 with respect to Occurrence Numbers 1515015 and 1621429:

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

The Arbitrator has made the above Rule 2080 finding with respect to both Occurrence Numbers based on the following reasons:

Claimant's conduct was, at all times, in accordance with the standards of all FINRA Rules. Claimant met with the Customers in both Occurrence Numbers numerous times to discuss their investment intents and needs. Claimant disclosed to both Customers the risks of the Company (Lehman), the market risks, and the liquidity risks. Both Customers were satisfied with the nature of the disclosed and discussed risks and it fit their investment objectives. The Lehman structured products at issue fit well within these parameters. Both Customers had sufficient other liquidity and possessed the minimum amount of net worth appropriate for investing. Both Customers were provided proper advice before investing. The key here is no one expected Lehman to have the financial issues that it had during the global financial downswing that occurred after both Customers made their investments.

### **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



**ARBITRATOR**

Harvey R. Linder

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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**

***Harvey R. Linder***

Harvey R. Linder  
Sole Public Arbitrator

**07/19/2021**

Signature Date

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July 19, 2021

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