

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Andrew James Ruboyianes

Case Number: 20-03440

vs.

Respondent

UBS Financial Services Inc.

Hearing Site: Phoenix, Arizona

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 Andrew James Ruboyianes (“Claimant”): Robert D. Mitchell, Esq., Tiffany & Bosco, P.A., Phoenix, Arizona.

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: October 5, 2020.

Claimant signed the Submission Agreement: July 21, 2020.

Statement of Answer filed on or about: October 13, 2020.

Respondent signed the Submission Agreement: October 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 did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 2073328 from his CRD records.

In the Statement of Answer, Respondent requested:

1. All costs and fees associated with the Claim be assessed solely against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

On April 14, 2021, Claimant advised that the customer in Occurrence Number 2073328 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Panel conducted a recorded, telephonic hearing on June 16, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing and, as stated in the Statement of Answer, did not oppose the request for expungement.

The Customer also did not participate in the expungement hearing. The Panel found that the Customer had notice of the expungement request and hearing.

The Panel reviewed Claimant's BrokerCheck® Report. The Panel noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrence in the CRD.

The Panel also reviewed the settlement documentation related to Occurrence Number 2073328, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Panel 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 Panel relied upon the following documentary or other evidence: oral testimony provided by Claimant at the expungement hearing, letters written by the Customer, and the settlement agreement between Respondent and Customer.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of all references to Occurrence Number(s) 2073328 from registration records maintained by the CRD for Claimant Andrew James Ruboyanes (CRD Number 4628859) with the understanding that, pursuant to Notice to Members 04-16, Claimant Andrew James Ruboyanes 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 Panel has made the following Rule 2080 affirmative finding(s) of fact:

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

The Panel has made the above Rule 2080 finding(s) based on the following reasons:

The Panel concluded that the Customer, who lodged a complaint, had made a mistake. He did not understand what the Claimant had told him. He did not understand the commission schedule as explained to him by Claimant. Customer’s complaint was made based on his own misunderstanding. Claimant had accurately stated the commissions.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Expungement Filing Fee = \$ 1,575.00

**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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge = \$ 1,900.00
Member Process Fee = \$ 3,750.00

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Panel, including a pre-hearing conference with the Panel, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the Panel @ \$1,125.00/session = \$ 1,125.00
Pre-Hearing Conference: January 28, 2021 1 session

One (1) hearing session on expungement request @ \$1,125.00/session = \$ 1,125.00
Hearing: June 16, 2021 1 session

Total Hearing Session Fees = \$ 2,250.00

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.

ARBITRATION PANEL

Morris S. Getzels	-	Public Arbitrator, Presiding Chairperson
Walter Steven Schwartz	-	Public Arbitrator
Stephanie P. Lebhar	-	Non-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.

Concurring Arbitrators' Signatures

Morris S. Getzels

Morris S. Getzels
Public Arbitrator, Presiding Chairperson

06/30/2021

Signature Date

Walter Steven Schwartz

Walter Steven Schwartz
Public Arbitrator

07/01/2021

Signature Date

Stephanie P. Lebhar

Stephanie P. Lebhar
Non-Public Arbitrator

06/30/2021

Signature Date

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July 06, 2021

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