

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Jose E. Chaves

Case Number: 20-03657

vs.

Respondent
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. Member

REPRESENTATION OF PARTIES

For Claimant Jose E. Chaves: Linette Figueroa-Torres, Esq., Toro Colon Mullet, P.S.C., San Juan, Puerto Rico.

For Respondent UBS Financial Services Incorporated of Puerto Rico: 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: October 27, 2020.

Jose E. Chaves signed the Submission Agreement: October 27, 2020.

Statement of Answer filed by Respondent on or about: December 15, 2020.

UBS Financial Services Incorporated of Puerto Rico signed the Submission Agreement: December 15, 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 oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1703471 and 2008375.

In the Statement of Answer, Respondent agreed to a finding of expungement of Occurrence Numbers 1703471 and 2008375 from Claimant's CRD records.

OTHER ISSUES CONSIDERED AND DECIDED

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

On January 7, 2021, Claimant filed with FINRA Dispute Resolution Services a notice of the parties' agreement to proceed with one Arbitrator instead of three arbitrators. Accordingly, the case proceeded with the undersigned as the sole Arbitrator.

On March 3, 2021, Claimant advised that the customers in Occurrence Number 1703471 ("Customers A") and the customer in Occurrence 2008375 ("Customer B") were 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 March 10, 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, did not oppose Claimant's request for expungement.

Customers A and Customer B also did not participate in the expungement hearing. The Arbitrator found that Customers A and Customer B 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 1703471 and 2008375, 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. The Arbitrator further noted that payments made to Customers A and Customer B were made as a matter of a business decision by Respondent rather than an admission of any wrongdoing by the brokerage.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the CRD records of Claimant at bar; the Statements of Claim and Respondent's Statements of Answer in both underlying arbitrations for Occurrence Numbers 1703471 and 2008375; the dismissal from the underlying arbitration for Occurrence Number 1703471; and the settlement agreements in both underlying arbitrations for Occurrence Numbers 1703471 and 2008375.

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. Pursuant to the parties' agreement during the expungement hearing, Respondent shall reimburse to Claimant the sum of \$375.00, which represents the non-refundable portion of the expungement filing fee previously paid by Claimant to FINRA Dispute Resolution Services.
2. The Arbitrator recommends the expungement of all references to Occurrence Numbers 1703471 and 2008375 from registration records maintained by the CRD for Claimant Jose E. Chaves (CRD Number 5827677) 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; and

The claim, allegation, or information is false.

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

As to both matters where expungement is sought, Claimant at bar was a named party based upon his association with the Chaves Investment Group, which was his father's group within UBS. Chronologically, all of the claims made in both occurrences were claims arising before the Claimant was an investment advisor. In the underlying arbitration for Occurrence 1703471, Claimant was dismissed from the claim by Customers A's counsel. In the underlying arbitration for Occurrence 2008375, Claimant was not even named in that claim.

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

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) hearing session on expungement request @ \$450.00/session	= \$ 450.00
Hearing: March 10, 2021 1 session	

Total Hearing Session Fee	= \$ 450.00
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Pursuant to the parties' agreement during the expungement hearing, the Arbitrator has assessed the entire hearing session fees to Respondent.

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

03/12/2021

Signature Date

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March 12, 2021

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