

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Arun Kumar

Case Number: 20-03866

vs.

Respondent
UBS Financial Services Inc.

Hearing Site: New York, New York

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 Arun Kumar: Blaine Bortnick, Esq., Rasco Klock Perez & Nieto, LLC, New York, New York.

For Respondent UBS Financial Services Inc.: Jill L. Rosenberg, Esq., Orrick Herrington & Sutcliffe LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: November 19, 2020.
Arun Kumar signed the Submission Agreement: November 18, 2020.

Statement of Answer filed by Respondent on or about: February 22, 2021
UBS Financial Services Inc. signed the Submission Agreement: February 22, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: wrongful termination; and expungement of Form U5 termination entry based on the defamatory nature of the entry in Claimant's Central Registration Depository ("CRD") records.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested reformation of his Form U5 due to the defamatory language, compensatory damages of at least \$975,000.00; pre- and post-award interest; attorneys' fees; costs; and such further and additional relief as deemed just, proper, and appropriate.

In the Statement of Answer, Respondent requested that Claimant's claims be dismissed in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On January 21, 2022, the parties filed a Stipulation wherein Claimant withdrew all claims asserted against Respondent with prejudice, except for the claim related to the reformation of Claimant's Form U5. Therefore, the Panel made no determination with respect to any of the other relief requests contained in the Statement of Claim.

The Award in this matter may be executed in counterpart copies.

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:

The Panel recommends the expungement of the Termination Explanation in Section 3 of Claimant Arun Kumar's (CRD Number 4577470) Form U5 filed by Respondent UBS Financial Services, Inc. (CRD Number 8174) on May 22, 2020 and maintained by the CRD. The Reason for Termination shall remain the same. The Termination Explanation shall be replaced with the following language: "Terminated without cause." This directive shall apply to all references to the Termination Explanation.

The Panel further recommends the expungement of all references to Occurrence Number 2074731 maintained by the CRD for Claimant Arun Kumar. Any "Yes" answers should be changed to "No," as applicable.

The Panel recommends expungement based on the defamatory nature of the information. The above recommendations are made with the understanding that the registration records are not automatically amended. Claimant Arun Kumar must forward a copy of this Award to FINRA's Credentialing, Registration, Education and Disclosure Department for review.

FEES

Pursuant to the Code of Arbitration Procedure ("Code"), the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee = \$ 1,725.00

**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 UBS Financial Services, Inc. is assessed the following:

Member Surcharge = \$ 2,475.00

Member Process Fee = \$ 5,075.00

Postponement Fees

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

January 24-26 & 28, 2022, postponement requested by the parties = \$ 1,300.00

Total Postponement Fees = \$ 1,300.00

The Panel has assessed the total postponement fees to Respondent.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

January 24-26 & 28, 2022, cancellation requested by the parties = \$ 1,800.00

Total Last-Minute Cancellation Fees = \$ 1,800.00

The Panel has assessed the total last-minute cancellation fees to Respondent.

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 Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the Panel @ \$1,300.00/session
Pre-Hearing Conference: April 5, 2021 1 session = \$ 1,300.00

Two (2) hearing sessions @ \$1,300.00/session
Hearing: January 27, 2022 2 sessions = \$ 2,600.00

Total Hearing Session Fees = \$ 3,900.00

The Panel has assessed the total hearing session fees to Respondent.

ARBITRATION PANEL

Daniel Robbins	-	Public Arbitrator, Presiding Chairperson
Andrew Daniel Levine	-	Public Arbitrator
Catherine Ladnier	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Daniel Robbins

Daniel Robbins
Public Arbitrator, Presiding Chairperson

02/04/2022

Signature Date

Andrew Daniel Levine

Andrew Daniel Levine
Public Arbitrator

02/07/2022

Signature Date

Catherine Ladnier

Catherine Ladnier
Non-Public Arbitrator

02/06/2022

Signature Date

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February 07, 2022

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