

**Stipulated Award  
FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Ana P. Pazmino

Case Number: 20-03879

vs.

Respondent  
HSBC Securities (USA) Inc.

Hearing Site: New York, New York

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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 Ana P. Pazmino: Jenice L. Malecki, Esq., and Darryl J. Bouganim, Esq., Malecki Law, New York, New York.

For Respondent HSBC Securities (USA) Inc.: Ira G. Rosenstein, Esq., and Joanne M. F. Wilcomes, Esq., Morgan, Lewis & Bockius LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: November 20, 2020.

Ana P. Pazmino signed the Submission Agreement: November 20, 2020.

HSBC Securities (USA) Inc. did not file a Statement of Answer or sign the Submission Agreement.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: defamation; injunction for non-disparagement; tortious interference; breach of contract; violation of numerous industry rules including FINRA Rule 2010, FINRA Rule 1122, and FINRA guidance in Regulatory Notice 10-39; and expungement of Form U5.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested that the Panel grant injunctive relief to expunge the defamatory sections of Claimant's Form U5; direct FINRA to do so without a court order using the specific language required by FINRA that "expungement relief is being granted because of the defamatory nature of the termination," and stating such in its award under the section titled "Award"; grant reimbursement of Claimant's costs and attorneys' fees; and any such other and further relief as the Arbitration Panel deems just and proper under the circumstances, including but not limited to costs and reasonable attorneys' fees.

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

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

Respondent did not file a Statement of Answer or a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and is bound by the determination of the Panel on all issues submitted.

On June 28, 2021, the parties filed a Motion for Entry of a Stipulated Award. On July 6, 2021, the Panel granted the motion.

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

### **AWARD**

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for entry of a Stipulated Award, and the written stipulation thereto, the Panel grants the motion and enters this Stipulated Award granting the following relief:

1. The Panel recommends the expungement of the Reason for Termination and Termination Explanation in Section 3 of Ana P. Pazmino (CRD Number 4524803) Amended Form U5 filed by HSBC Securities (USA) Inc. (CRD Number 19585) on September 21, 2020 and maintained by the Central Registration Depository ("CRD") including all subsequent U5 amendments by HSBC Securities (USA) Inc. The Reason for Termination shall be changed to "Voluntary" and the Termination Explanation shall be deleted in its entirety and should appear blank. This directive shall apply to all references to the Reason for Termination and Termination Explanation. The Panel further recommends the expungement of the explanation for amending the Reason for Termination or Termination Explanation on the Amended Form U5 filed by HSBC Securities (USA) Inc. on May 5, 2021 and maintained by

the CRD. The response to this question should be deleted in its entirety and should appear blank.

The Panel further recommends that the response to the “How was internal review concluded” question (Question 5B) of the Internal Review DRP related to Occurrence Number 2126126 maintained by CRD for Ana P. Pazmino be expunged in its entirety and replaced with the following language: “Employee voluntarily resigned with notice. Prior to her last day of employment, employee entered the branch prior to office hours. Upon investigation, the firm determined that there was no wrongful taking of property.” This directive shall apply to all references to the “How was internal review concluded” question.

2. The Panel also recommends the expungement of all references to Occurrence Number 2088128 maintained by the CRD for Ana P. Pazmino. Any “Yes” answers should be changed to “No,” as applicable.
3. 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. Ana P. Pazmino must forward a copy of this Award to FINRA’s Credentialing, Registration, Education and Disclosure Department for review.
4. Any and all claims for relief not specifically addressed herein, including any requests for attorneys’ fees, are denied.

### **FEES**

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

#### **Filing Fees**

FINRA Dispute Resolution Services will retain or collect the non-refundable filing fees\* for each claim:

Initial Claim Filing Fee = \$ 1,575.00

*\*The filing fee is made up of a non-refundable and a refundable portion.*

Pursuant to Rule 13902(d) of the Code, FINRA shall retain the total amount of the filing fee deposited by Claimant since this office was notified by the parties that they settled or withdrew this matter within 10 calendar days of the first scheduled hearing session.

#### **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 HSBC Securities (USA) Inc. is assessed the following:

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

**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:

June 8, 2021 settled by the parties.	= \$ 1,800.00
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Total Last-Minute Cancellation Fees	= \$ 1,800.00
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The Panel has assessed \$900.00 of the last-minute cancellation fees to Claimant.

The Panel has assessed \$900.00 of the 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 @ \$1,125.00/session	= \$ 1,125.00
Pre-Hearing Conference: March 17, 2021	1 session

Decision on the papers:	= \$ 300.00
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Total Hearing Session Fees	= \$ 1,425.00
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The Panel has assessed \$712.50 of the hearing session fees to Claimant.

The Panel has assessed \$712.50 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Edward W. Morris, Jr.	-	Public Arbitrator, Presiding Chairperson
Annamaria Boccia Smith	-	Public Arbitrator
Paul K. Barenholtz	-	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**

***Edward W. Morris, Jr.***

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Edward W. Morris, Jr.  
Public Arbitrator, Presiding Chairperson

**07/19/2021**

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Signature Date

***Annamaria Boccia Smith***

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Annamaria Boccia Smith  
Public Arbitrator

**07/19/2021**

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Signature Date

***Paul K. Barenholtz***

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Paul K. Barenholtz  
Non-Public Arbitrator

**07/19/2021**

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Signature Date

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July 20, 2021

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

