

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Edgardo H. Ferrer

Case Number: 20-04204

vs.

Respondents
UBS Financial Services Incorporated of Puerto Rico
UBS Financial Services Inc.

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. Members

REPRESENTATION OF PARTIES

For Claimant Edgardo H. Ferrer: Leany Prieto-Rodriguez, Esq. and Roberto C. Quiñones, Esq., McConnell Valdes, LLC, San Juan, Puerto Rico.

For Respondents UBS Financial Services Incorporated of Puerto Rico (“UBSPR”) and UBS Financial Services Inc. (“UBS”): Rey F. Medina Vélez, Esq., UBS Financial Services Incorporated of Puerto Rico, San Juan, Puerto Rico.

CASE INFORMATION

Petition for Expungement filed on or about: December 29, 2020.
Edgardo H. Ferrer signed the Submission Agreement: November 13, 2020.

Response to Petition for Expungement filed by Respondents on or about: February 4, 2021.
UBS Financial Services Incorporated of Puerto Rico signed the Submission Agreement:
February 4, 2021.
UBS Financial Services Inc. signed the Submission Agreement: February 4, 2021.

CASE SUMMARY

In the Petition for Expungement, Claimant asserted a claim seeking expungement of customer dispute information from registration records maintained by the Central Registration Depository (“CRD”).

In the Response to Petition for Expungement, Respondents stated it did not oppose Claimant’s request for expungement.

RELIEF REQUESTED

In the Petition for Expungement, Claimant requested expungement of Occurrence Number 1980642.

In the Response to Petition for Expungement, Respondents requested a finding be entered by the Arbitrator in favor of Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

On July 2, 2021, Claimant filed a Motion Submitting Proof of Service to the Customers in Occurrence Number 1980642 (“Customers”) that reflected the following:

On January 31, 2020, prior to the filing of the Petition for Expungement, Claimant sent counsel for the underlying customers in Occurrence Number 1980642 (the “Customers”) an email stating that Claimant intended to file a petition for expungement with FINRA. Therein, Claimant requested that counsel for the Customers confirm that Claimant could represent in its petition that the Customers do not oppose the expungement request and would not be participating in the expungement hearing.

On February 2, 2020, counsel for the Customers responded to the email and confirmed that the Customers do not oppose the expungement request and would not be participating in the proceeding.

On April 28, 2021, Claimant sent the Customers’ counsel a copy of the Petition for Expungement (with Exhibits) along with notice of the date and time of the expungement hearing.

As of July 1, 2021, neither the Customers nor their counsel responded to Claimant’s notice.

The Arbitrator conducted a recorded, telephonic hearing on July 14, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

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

The Customers did not participate in the expungement 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 occurrence in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Number 1980642, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator 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 Arbitrator relied upon the following documentary or other evidence: testimony of Claimant; Claimant's CRD; complaint filed by the Customers, account statements, and the settlement document.

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:

The Arbitrator recommends the expungement of all references to Occurrence Number 1980642 from registration records maintained by the CRD for Claimant Edgardo H. Ferrer (CRD Number 5638180) with the understanding that, pursuant to Notice to Members 04-16, Claimant Edgardo H. Ferrer 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.

The claim, allegation, or information is false.

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

Claimant inherited two customers from a retiring broker at the same brokerage firm. Claimant made no recommendations to the Customers regarding the investment portfolio "inherited" from the retiring financial advisor. The securities which eventually gave rise to the Customers' claims versus Respondents were purchased two years before the involvement of Claimant with the Customers. Claimant made no recommendations to the Customers. The settlement by Respondents UBSPR and UBS with the Customers was made without input from Claimant.

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

= \$ 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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as parties, Respondents UBSPR and UBS are each 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) pre-hearing session with a single Arbitrator @ \$1,125.00/session	= \$ 1,125.00
Pre-Hearing Conference: April 27, 2021	1 session

One (1) hearing session on expungement request @ \$1,125.00/session	= \$ 1,125.00
Hearing: July 14, 2021	1 session

Total Hearing Session Fees	= \$ 2,250.00
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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.

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

07/23/2021

Signature Date

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July 26, 2021

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