

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Bradley Thomas Lott

Case Number: 21-00147

vs.

Respondents
UBS Financial Services Inc.,
Morgan Stanley, and
Wells Fargo Clearing Services, LLC

Hearing Site: Detroit, Michigan

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 Bradley Thomas Lott (“Claimant”): Erika Binnix, Esq., Harris Freedman, Esq., and Dochter Kennedy, Esq. AdvisorLaw, LLC, Westminster, Colorado.

For Respondent UBS Financial Services Inc. (“UBS”): John Murphy, Esq., John Murphy & Associates, P.C., New York, New York.

For Respondent Morgan Stanley a/k/a Morgan Stanley Smith Barney LLC: Todd A. Holleman, Esq., Miller, Canfield, Paddock and Stone, P.L.C., Detroit, Michigan.

For Respondent Wells Fargo Clearing Services, LLC (“WFCS”): Jonathan Sterling, Esq., Saretsky Hart Michaels + Gould PC, Birmingham, Michigan.

CASE INFORMATION

Statement of Claim filed on or about: January 21, 2021.
Claimant signed the Submission Agreement on: January 21, 2021.

Statement of Answer filed by UBS on or about: February 25, 2021.
UBS signed the Submission Agreement: February 17, 2021.

Statement of Answer filed by Morgan Stanley on or about: April 5, 2021.
Morgan Stanley signed the Submission Agreement: April 5, 2021.

Statement of Answer filed by WFCS: May 18, 2021.
WFCS signed the Submission Agreement: May 20, 2021.

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, UBS did not oppose Claimant’s request for expungement.

In the Statement of Answer, Morgan Stanley did not oppose Claimant’s request for expungement.

In the Statement of Answer, WFCS took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1252323, 1476376, 1667057, and 1553834 and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, UBS opposed any request by Claimant for damages and requested that all costs and fees associated with the claim be assessed solely against Claimant.

In the Statement of Answer, Morgan Stanley opposed any requests for damages or other relief against Morgan Stanley.

In the Statement of Answer, WFCS opposed any request for monetary or other relief against WFCS and requested that Claimant bear all fees and costs associated with the proceedings.

OTHER ISSUES CONSIDERED AND DECIDED

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

On May 6, 2021, UBS, Morgan Stanley, and WFCS (collectively, “Respondents”) and Claimant filed a Joint Stipulation Pursuant to FINRA Rule 13401(c) agreeing to have this matter heard by one arbitrator.

On November 30, 2021, Claimant advised that the customers in Occurrence Numbers 1252323 and 1553834 (“Customers”) were served with the Statement of Claim and notice of the date and time of the expungement hearing. On the same date, Claimant also filed death records and obituaries for the customers in Occurrence Numbers 1476376 and 1667057. On December 6, 2021, Claimant filed an Affidavit confirming that the Customers were served with the Statement of Claim and notice of the date and time of the expungement hearing.

On December 8, 2021, the customer in Occurrence Number 1553834 filed correspondence opposing Claimant’s request for expungement.

On January 7, 2022, Claimant and UBS filed a Stipulation to Withdraw Without Prejudice the request for expungement of Occurrence Number 1553834. Therefore, the Arbitrator made no determination with respect to Claimant's request for expungement of Occurrence Number 1553834.

The Arbitrator conducted a recorded, telephonic on February 3, 2022, so the parties could present oral argument and evidence on Claimant's request for expungement.

Morgan Stanley and WFCS participated in the expungement hearing and, as stated in the Statement of Answer, did not oppose the request for expungement. UBS did not participate in the expungement hearing.

The Customers did not participate in the expungement hearing. The Arbitrator found that the Customers 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 noted that the disputes related to Occurrence Numbers 1252323, 1476376, and 1667057 were not settled and, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Statement of Claim, Claimant's testimony, and Claimant's Exhibits.

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. The Arbitrator recommends the expungement of all references to Occurrence Numbers 1252323, 1476376, and 1667057, from registration records maintained by the CRD for Claimant Bradley Thomas Lott (CRD Number 2681624) with the understanding that, pursuant to Notice to Members 04-16, Claimant Bradley Thomas Lott 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.

Occurrence Number 1667057

Pursuant to Rule 13805 of the Code of Arbitration Procedure ("Code"), the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

Occurrence Numbers 1252323 and 1476376

Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

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

Claimant testified to the circumstances surrounding each claim made in each occurrence and Claimant's counsel presented documentary evidence to show Claimant had no involvement with any alleged claim. In Occurrence Number 1252323, Exhibit 1 disclosed Claimant's innocence relative to the claim. Claimant testified that he was not given an order to make the trade allegedly requested by the customer. In Occurrence Number 1476376, Claimant testified that he properly executed a trade for one of two trustees of a trust where only one was required to act. The claim made by the second trustee was without merit. In Occurrence Number 1667057, an error was committed between broker-dealers in transferring the customer's account. The error resulted in taxes being applied to a transaction. Claimant's testimony supported this conclusion.

2. Any and all claims for relief not specifically addressed herein are denied.

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 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 @ \$1,125.00/session = \$ 1,125.00
Pre-Hearing Conference: July 23, 2021 1 session

One (1) hearing session on expungement request @ \$1,125.00/session = \$ 1,125.00

Hearing: February 3, 2022 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.

ARBITRATOR

Jeffry M. Bauer

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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

Jeffry M. Bauer

Jeffry M. Bauer
Sole Public Arbitrator

02/08/2022

Signature Date

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February 08, 2022

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