

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Francisco Landivar

Case Number: 21-00260

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 Francisco Landivar: Isabel Torres-Sastre, Esq. and Roberto C. Quiñones-Rivera, Esq., McConnell Valdés LLC, San Juan, Puerto Rico.

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

CASE INFORMATION

Petition for Expungement filed on or about: February 1, 2021.
Francisco Landivar signed the Submission Agreement: January 28, 2021.

Response to Petition for Expungement filed by Respondents on or about: March 11, 2021.
Respondent UBSPR signed the Submission Agreement: March 11, 2021.
Respondent UBS signed the Submission Agreement: March 11, 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 the Petition for Expungement, Respondents stated that they do not oppose Claimant’s request for expungement.

RELIEF REQUESTED

In the Petition for Expungement, Claimant requested expungement of Occurrence Number 2025076 from his CRD records.

In the Response to the Petition for Expungement, Respondents stated that they agree to a finding of expungement by the Arbitrator.

OTHER ISSUES CONSIDERED AND DECIDED

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

On April 12, 2021, the parties submitted a stipulation to proceed with one arbitrator in this matter.

On July 19, 2021, Claimant served by certified mail the Executor for the Estate of the customers in Occurrence Number 2025076 ("Customers") with the Petition for Expungement and notice of the date and time of the expungement hearing, which was signed for on July 21, 2021. Claimant also sent an email to the Executor for the Customers on July 20, 2021, for which Claimant received a delivery confirmation.

The Arbitrator conducted a recorded, telephonic hearing on August 10, 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 Response to Petition for Expungement, did not oppose the request for expungement.

The Executor for the Customers did not participate in the expungement hearing. The Arbitrator found that the Executor for 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 occurrence in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Number 2025076, 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: Exhibits "F" and "G" to the Petition for Expungement, and Claimant's testimony that he didn't make any financial recommendations to the Customers, and that the Customers bought all the subject Puerto Rican investments at least a year before Claimant even met them. Claimant also testified that he merely performed administrative tasks for the Customers, and the documents established that such testimony was true.

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 Number 2025076 from registration records maintained by the CRD for Claimant Francisco Landivar (CRD Number 2784555) with the understanding that, pursuant to Notice to Members 04-16, Claimant Francisco Landivar 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 finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

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

Claimant was not the Customers' financial advisor on the various dates that the Customers purchased the Puerto Rican investments that they complained about in their underlying case against Respondents. Claimant only performed administrative tasks for the Customers. Claimant did not even meet the Customers until about one year after their last transaction about which they complained and about one year after the crash of the Puerto Rican market resulting in financial damages to the Customers. Accordingly, the Arbitrator finds that the claim, allegation or information was factually impossible or clearly erroneous.

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
------------------------	--------------

**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 with a single Arbitrator @ \$1,125.00/session	= \$ 1,125.00
Pre-Hearing Conference: June 1, 2021	1 session

One (1) hearing session on expungement request @ \$1,125.00/session	= \$ 1,125.00
Hearing: August 10, 2021	1 session

Total Hearing Session Fees	= \$ 2,250.00
----------------------------	---------------

Pursuant to the agreement of the parties, the Arbitrator has assessed the total hearing session fees jointly and severally to Respondents.

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

ARBITRATOR

Christopher J. Klein

-

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

Christopher J. Klein

Christopher J. Klein
Sole Public Arbitrator

08/17/2021

Signature Date

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.

August 17, 2021

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