Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Ángel Manuel Canabal, Sr.

Case Number: 21-00557

vs.

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

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 Ángel Manuel Canabal, Sr. ("Claimant"): Russell Del Toro-Parra, III, Esq. and Linette Figueroa-Torres, Esq., Toro Colón Mullet, P.S.C., San Juan, Puerto Rico.

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

CASE INFORMATION

Statement of Claim filed on or about: March 1, 2021.
Ángel Manuel Canabal, Sr. signed the Submission Agreement: March 1, 2021.

Statement of Answer filed by Respondent on or about: April 12, 2021.
UBS Financial Services, Inc. signed the Submission Agreement: April 12, 2021.
UBS Financial Services Incorporated of Puerto Rico signed the Submission Agreement: April 12, 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, Respondents supported Claimant's expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1887301 ("Customers A"), 1909094 ("Customers B"), 1939305 ("Customers C"), and 1940861 ("Customer D"), referred to collectively as the "Customers."

In the Statement of Answer, Respondents requested: that a finding should be entered by the presiding Arbitrator in favor of Claimant obtaining expungement of the actions from his CRD record.

OTHER ISSUES CONSIDERED AND DECIDED

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

On August 18, 2021, Claimant advised that the Customers were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on August 25, 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, supported the request for expungement.

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 also reviewed the settlement documentation related to Occurrence Numbers 1887301, 1909094, 1939305, and 1940861, considered the amount of payment made to any party to the settlements, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on any party to the settlements not opposing the expungement request and that Claimant did not contribute to the settlement amounts.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Statements of Claim in the underlying actions; Respondents' Answers in the underlying actions; Claimant's Petition for Expungement; hearing exhibits; Claimant's Supplemental Hearing Exhibits; Claimant's updated BrokerCheck Report; Respondents' Answer to the Petition for Expungement; Claimant's hearing testimony; and argument of counsel.

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 1887301, 1909094, 1939305, and 1940861 from registration records maintained by the CRD for Claimant Ángel Manuel Canabal, Sr. (CRD Number 2180310) with the understanding that, pursuant to Notice to Members 04-16, Claimant Ángel Manuel Canabal, Sr. 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 claim, allegation, or information is false.

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

   General Findings Applicable to All Occurrences:

   After considering the pleadings in the four underlying actions, Claimant's testimony, all exhibits admitted into evidence, and argument of counsel, the Arbitrator has decided, in full and final resolution of the issues submitted for determination, as follows:

   Claimant's Background and Employment:

   Claimant currently is employed by and registered with Respondents. He has been with these firms since early 1998. Claimant is registered with nine self-regulatory organizations and in seven states and territories. Claimant previously was registered with Merrill Lynch from November 1991 through February 1998.

   Occurrence Number 1887301 (Case Number 16-01428):

   In this underlying Action, Customers A were a husband ("Customer A1") and wife ("Customer A2"), along with a trust they set up ("Customer A3"), who had opened their accounts with Respondents in 1998. They were customers of Claimant at Merrill Lynch before he transferred to Respondents. Customer A1 was a successful businessman and ophthalmologist who owned and ran a medical practice in Mayaguez, Puerto Rico. Customers A's opening account documents with Respondents described them as experienced investors. They had investment objectives of "aggressive/speculative" with "moderate risk tolerance." Customers A had a consistent interest in accepting the risk of loss of principal in exchange for the opportunity of receiving higher returns. There was no evidence that Customers A had conservative investment goals.

   Starting in 2008, and for the next few years, Customers A invested in a diversified array of Puerto Rico ("PR") securities and kept around 10-15% in U.S.- based investments. The PR investments included bonds from different issuers with dedicated payment streams essential

for Customers A to be able to make all their financial goals possible. Customers A each had a substantial amount in three PR Bond Funds ("Funds") which were rated AAA that were generally subject to U.S. not PR credit risk. All three Funds represented securities that over time had been shown to be safe and stable investments. With Claimant's professional advice, Customers A reallocated a substantial portion of their investments into PR bonds and Funds which resulted in their being able to enjoy significant tax advantages offered to PR investors. In fact, unlike their U.S. counterparts, PR securities were "triple-tax-free," that is, the investors did not have to pay federal, state, or local income tax on such investments. For Customers A, tax-free income was an essential investment objective. Customer A1 wanted to retire in the next few years and have a portfolio generating roughly the same monthly income that his medical practice did so he could maintain a similar lifestyle. Customer A1 had been earning a substantial sum per year from his medical practice and, therefore, needed a portfolio that would generate a high per month after-tax income.

Another of Customers A's investment goals with the PR bond and Fund portfolio was to not be subject to the estate "death tax." Customers A established a trust to shield assets intended to be passed along to their children. With all the above in mind, Customers A desired investment grade fixed income investments which could provide a substantial income stream while protecting their assets from the consequences of the high estate tax. Customer A1 was very "hands on," meaning that he continuously checked his investment accounts online during the day. Respondents' records reflect that he logged in nearly three thousand (3,000) times, that is, more than once per day between January 2008 and the end of 2014. Most importantly, Customer A1 had weekly meetings with Claimant during more than a decade and demonstrated that he fully understood the nature of his investments and the risks they carried.

The evidence clearly showed that Claimant was committed to provide Customer A1 and his personal attorney with all information relevant to Customers A's investments. The large body of emails between Claimant and Customer A1 reveals that Claimant provided Customer A1 with news articles, Respondents' research reports, and other important information. That information included negative reports about the PR bond market. However, despite this timely and material information, Customer A1 decided to purchase additional PR bonds. The evidence showed that Customer A1 visited Claimant at his office on a regular weekly basis and sometimes more than that. Those meetings involved frank discussions about the risks and rewards associated with each of Customers A's investments. Customer A1 showed a very strong desire to stay invested in the PR bond market after its summer of 2013 collapse. Customer A1 acted in this regard on an unsolicited basis. Claimant continued to provide Customer A1 with research reports demonstrating an increasingly negative outlook for PR bonds and, accordingly, Claimant recommended that Customers A diversify their assets into safer securities. Despite Claimant's efforts to convince him otherwise, Customer A1 continued to buy PR bonds.

Notwithstanding the 2013 PR bond market collapse, Customers A still enjoyed an 8.6% return in 2014 because PR bonds were still paying high returns. In fact, six months after the collapse, Customers A had a substantial dollar net profit. However, PR investors in that market were going to suffer further declines rather than enjoy a rebound. Once this became apparent, in November 2015, Customers A sold the majority of their remaining portfolio.

The Arbitrator finds that Claimant cannot be held responsible in any way for the 2013 PR bond market collapse. There was nothing in the relationship between Claimant and Customers A indicating that at any time Claimant made unsuitable recommendations to Customers A. It is very important to highlight that Claimant kept Customer A1 and his attorney fully informed about developments in the PR market regardless of whether it was good or bad news. Customer A1 relied on his own investigations and experience to make judgments whether to continue investing in PR bonds. The Arbitrator finds there was nothing else that Claimant reasonably could have done to fully and fairly discharge his professional and ethical responsibilities as a financial advisor ("FA") to Customers A. For all these reasons, the Arbitrator finds that Customers A's claim was factually impossible, clearly erroneous, and false and should be expunged from Claimant's CRD under Rules 2080(b)(1)(A) and (C).

Occurrence Number 1909094 (Case Number 16-02892):

Customers B were a husband ("Customer B1") and wife ("Customer B2") and their trust ("Customer B3"). In 1995, Customers B opened accounts with Claimant at Merrill Lynch. Customer B1 was a successful engineer and contractor and was in charge of making investment decisions for Customers B's portfolio. In 1998, when Claimant moved to Respondents, Customers B decided to open accounts there. Customers B had high net worth and four years of experience investing in bonds. They were seeking "current income" and had a "moderate risk tolerance." Customers B had investments handled by other FAs at Santander Securities and Popular Securities. Over the years Customers B purchased PR Funds. Prior to each purchase, Claimant would discuss these investments with Customer B1, including how they would impact Customers B's overall portfolio. Customer B1 received all the necessary disclosure documents and information about the risk involved with this type of investment. The same types of discussions and disclosures were common to all of Customers B's accounts. Between 1999 and 2011, Customer B1 opened a number of accounts which included some for retirement and his engineering firm. Many of those accounts were managed and included 100% U.S. stocks and fixed income investments. Clearly, Customers B were not invested only in PR securities as they had pled in their Statement of Claim in the underlying action.

In 2011, Customers B set up a trust and opened several accounts for it. To fund the trust, Customers B's positions in other accounts were transferred to it. They included U.S. bonds and PR bonds and Funds which were at issue in the underlying action. For the trust accounts, Customers B stated their goal was "current income" with a "moderate risk tolerance." The stated net worth was substantial. Contrary to the allegations in their Statement of Claim, Customers B's portfolio showed 40% non-PR investments in June of 2013 which was several months prior to the PR bond market collapse. When they filed their underlying action in 2016, Customers B still had large sums in both PR Funds and PR bonds. In 2018, when Customers B closed all of their accounts with Respondents, they showed a substantial net profit.

The Arbitrator finds that Claimant made only suitable investment recommendations for Customers B which matched their investment objectives and risk tolerance. Customers B enjoyed high levels of tax-free income that only PR securities were capable of generating. All decisions to purchase these investments were made by Customer B1 on behalf of Customers B after being fully informed about the nature and risks involved. Customer B1

actively managed Customers B's accounts and did his own financial analyses which he shared with Claimant. Clearly, Customer B1 was an active and knowledgeable investor who had substantial business and investment experience. The 2013 PR bond market collapse was an event beyond the control of Claimant. That event did not make Claimant's recommendations unsuitable for Customers B at any time. The fact that Customers B continued to hold PR bonds and funds for years after the 2013 collapse is proof that they preferred consistent, monthly income as the most important aspect of their investment decisions. The Arbitrator finds that, based on the overwhelming weight of the testimonial and documentary evidence, Customers B's claim was factually impossible, clearly erroneous, and false and should be expunged from Claimant's CRD under Rules 2080(b)(1)(A) and (C).

Occurrence Number 1939305 (Case Number 17-01430):

Customers C were a husband ("Customer C1") and wife ("Customer C2") who met Claimant in 1995 when he worked at Merrill Lynch. They moved their accounts to Respondents in March of 1998 after Claimant began employment there. Customers C had an investment objective of "current income and capital appreciation" and a risk profile of "moderate" with respect to their joint accounts. They had a high yearly income and a high net worth. Customer C1 was a physician who had a successful urology practice. After being fully informed about the benefits and risks of PR bonds and Funds, Customers C decided to purchase a large investment in seven different funds. In October of 2012, Customer C1 passed away and his surviving spouse, Customer C2, opened an individual account to which she transferred the securities previously held jointly with Customer C1. The account had an investment objective of "current income" and a "moderate" risk tolerance. Customer C2 and Customer C1's son, also a successful urologist, met with Claimant to discuss an investment strategy. They decided to keep following the same investment strategy as before. Customer C2 stayed in constant touch with Claimant and came to his office every month to pick up her checks. She would engage in meetings with him when she was there. After the August 2013 PR bond market collapse, Customer C2 and her son met with Claimant and decided to sell positions in her PR bond Funds. Those sales continued through October of 2013. Customer C2 received notice of a bond-fund repurchase program but chose not to participate. Through the time of filing the underlying action, Customer C2 maintained her positions in the remaining Funds which had generated a large sum in tax-advantaged income, with a large net gain.

The Arbitrator finds, based upon the overwhelming testimonial and documentary evidence, that Customer C2's allegations against Claimant, that he misrepresented and/or omitted information about the Funds, is factually impossible, clearly erroneous, and false. Claimant's frequent meetings involving significant discussions with Customer C2 underscore that the allegations in the underlying action were without factual foundation to support her claims about Claimant's conduct. In a word, Customer C2 received all important information about the risks involved relating to her PR investments, and Customers C had confirmed that fact in writing. Most important, Customer C2 invested in those PR products for at least seventeen (17) years because they had generated consistent, tax-advantaged income. Even more telling is the fact that Customer C2 held onto the Funds for nearly four (4) years after the 2013 collapse and more than eight (8) years after her last purchase of them.

Claimant is not responsible for the 2013 market collapse, nor any decline in the value of Customer C2's PR investments. In fact, at the time of filing the underlying action, Customer

C2 had enjoyed a significant net gain in her investments even though their value in September of 2013 had started to decline. It must be highlighted that Customer C2 enjoyed consistent monthly income which was crucial to her investment strategy and the main reason why she held onto her AAA-Fund for nearly four (4) years after the 2013 market collapse. The Arbitrator concludes that the allegations in Customer C2's underlying action were factually impossible, clearly erroneous, and false and should be expunged from the Claimant's CRD under Rules 2080(b)(1)(A) and (C).

Occurrence Number 1940861 (Case Number 17-01572):

Customer D is a successful businessman and former senior banking executive at Westernbank Puerto Rico. Customer D had been Claimant's client since the 1990s. When Claimant transferred from Merrill Lynch to Respondents in February of 1998, Customer D transferred his investments from Merrill Lynch to Respondents. That transfer included PR bonds, PR GNMA asset-back securities, and PR bank stock, including a substantial sum from Westernbank. Customer D stated that his investment objective was "current income and capital appreciation" with a primary risk tolerance of "moderate" and a secondary risk tolerance of "aggressive/speculative." He stated that he had fifteen (15) years of investment experience. In his capacity as a senior bank executive, Customer D had in-depth knowledge about the PR economy. He also was very familiar with purchasing on margin and issues relating to leverage and PR bank stocks. After taking into consideration all necessary disclosures and important information from Claimant about PR bond Funds, in 2002 and 2003, Customer D decided to buy several of them. Due to his satisfaction with those Funds' performance, Customer D made additional purchases of Funds in 2004 and 2005. Customer D confirmed in writing that he had received all necessary materials related to those Funds and understood the risks associated with them, including the use of leverage.

After the 2013 PR bond market collapse, Customer D had to partially liquidate his PR investments to reduce his credit line balance to avoid collateral calls. Pursuant to Claimant's recommendation, Customer D sold some of his Fund shares through Respondents' repurchase program. Claimant continuously was in touch with Customer D to keep him well-informed about all significant matters relating to his investments and the market in general.

The Arbitrator finds that, based on overwhelming evidence, Customer D's investments in the Funds were suitable. Accordingly, Customer D's allegations in the underlying action were factually impossible, clearly erroneous, and false. Customer D invested in the Funds for more than twenty (20) years, including after the 2013 PR bond market collapse. Claimant faithfully followed Customer D instructions about what to do in his accounts. Customer D clearly understood the risks of investing in the Funds. Customer D's decisions to concentrate his portfolio in PR investments was of his own choosing utilizing his many years of experience as a senior bank executive. The Arbitrator finds that Claimant could not have been responsible for the consequences of the 2013 PR bond market collapse, and the fact that event happened did not make Claimant's professional advice unsuitable. For all of these reasons, Customer D's allegations in the underlying action were factually impossible, clearly erroneous, and false and should be expunged from the Claimant's CRD under Rules 2080(b)(1)(A) and (C).

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:

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 firms that employed the associated person at the time of the events 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) hearing session on expungement request @ $1,125.00/session	=$	1,125.00
Hearing: August 25, 2021 1 session		
Total Hearing Session Fees	=$	1,125.00

The Arbitrator has assessed the total hearing session fees to Respondents, jointly and severally, per the parties' agreement.

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

ARBITRATOR

Martin A. Feigenbaum - 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

Martin A. Feigenbaum **08/31/2021**

Martin A. Feigenbaum
Sole Public Arbitrator

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.

September 01, 2021
Date of Service (For FINRA Dispute Resolution Services use only)