

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
David L. Rojas

Case Number: 21-00736

vs.

Respondents
UBS Financial Services Inc.
UBS Financial Services Incorporated of Puerto Rico
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 David L. Rojas: Roberto C. Quiñones, Esq. and Sonia M. Lopez del Valle, Esq., McConnell Valdes LLC, San Juan, Puerto Rico.

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

CASE INFORMATION

Statement of Claim filed on or about: March 19, 2021.
David L. Rojas signed the Submission Agreement: March 19, 2021.

Statement of Answer filed by Respondent on or about: April 20, 2021.
UBS signed the Submission Agreement: April 20, 2021.
UBSPR signed the Submission Agreement: April 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, Respondents did not oppose and supported Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1979237.

In the Statement of Answer, Respondents agreed that a finding should 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 June 14, 2021, the parties filed with FINRA Dispute Resolution Services a stipulation to request that the undersigned Arbitrator, who appeared on the parties' ranking lists, be appointed as the sole arbitrator, instead of the three-arbitrator panel prescribed under the Code of Arbitration Procedure (the "Code"). Accordingly, the Arbitrator was appointed to decide this matter.

On September 22, 2021, Claimant filed a Declaration Under Penalty of Perjury confirming that the customer in Occurrence Number 1979237 ("Customer") was 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 October 20, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

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

The Customer did not participate in the expungement hearing. The Arbitrator found that the Customer 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 1979237, 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: the parties' respective Submission Agreements; Claimant's Petition for Expungement and exhibits, including the Amended Statement of Claim for the underlying action; Respondents' Statement of Answer; proof of service upon the Customer; Claimant's BrokerCheck® and updated BrokerCheck® Reports; the Settlement Agreement in the underlying action; and the testimony of Claimant and of the attorneys for Claimant and Respondents.

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 1979237 from registration records maintained by the CRD for Claimant David L. Rojas (CRD Number 3139380) with the understanding that, pursuant to Notice to Members 04-16, Claimant David L. Rojas 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:

The Customer first opened an account at UBS in July 1999. From July 1999 to October 2013, several UBS brokers serviced the account and advised the Customer. During this period and with all the advisors assigned to the account, the Customer invested in a variety of Puerto Rico bonds which provided her with income and the tax advantage she desired. All these transactions took place prior to July 2013. In late August 2013, the Puerto Rico bond market suffered an unprecedented decline, impacting the value of Puerto Rico bonds. Nevertheless, as advised by her then broker in late 2013, the Customer again invested in Puerto Rico bonds. Upon the departure of her then financial advisor, in December 2014 the Claimant was assigned to service the Customer's investment account. No transactions took place once the Claimant was assigned to the account, and he never met the Customer. In February 2015, the Customer transferred her account to another UBS branch and another broker was assigned to her account. After this account transfer in April 2018, the Customer filed the Statement of Claim for FINRA Arbitration Case Number 18-01394. In her Claim, the Customer alleges unsuitability, inadequate asset allocation and over concentration in Puerto Rico securities, including Puerto Rico closed-end funds and bonds. The alleged damages were \$782,847.00.

There is no dispute that Claimant had not become the Customer's Financial Advisor until after the recommendations and transactions at issue were made and after the decline of the Puerto Rico bond market in August 2013. Claimant did not misrepresent, omit any material facts, or make any purchase recommendations to the Customer. Claimant was only the

Financial Advisor of record for two months and the action should not appear on his CRD. The representatives for Respondent testified to these facts, and the fact that the underlying claim was settled as a business decision for a nominal amount and that the Claimant had not participated or contributed to the settlement. Respondent also testified that the Settlement was not contingent on expungement of the claim from the broker's record.

The erroneous allegations on Claimant's CRD records and BrokerCheck® Report harm Claimant's reputation by misinforming the public of his conduct towards the Customer's account. The disclosure makes the record inaccurate and conveys the false impression that Claimant acted improperly. There is no benefit to the investing public that outweighs the harm to Claimant's reputation through the continued disclosure of this incident.

For all the above reasons, Claimant is entitled to have this incident expunged from his CRD records and BrokerCheck® Report under all three sections of FINRA Rule 2080, which have been satisfied.

2. Pursuant to the parties' agreement, Respondent shall reimburse Claimant \$375.00 for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.

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
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*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 UBS and UBSPR 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: August 2, 2021	1 session

One (1) hearing session on expungement request @ \$1,125.00/session	= \$ 1,125.00
Hearing: October 20, 2021 1 session	

Total Hearing Session Fees	= \$ 2,250.00
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Pursuant to the parties' agreement, 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

Elena G. Rodriguez

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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

Elena G. Rodriguez

Elena G. Rodriguez
Sole Public Arbitrator

10/26/2021

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.

October 26, 2021

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