

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Jim King Mui

Case Number: 21-00779

vs.

Respondents  
Prudential Equity Group, LLC  
UBS Financial Services, Inc.  
Raymond James Financial Services, Inc.  
Raymond James & Associates, Inc.

Hearing Site: Boca Raton, Florida

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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 Jim King Mui (“Claimant”): Harris Freedman, Esq., Of Counsel, HLBS Law, Westminster, Colorado.

For Respondent Prudential Equity Group, LLC (“PEG”): Jennifer E. Novoselsky, Esq., Reyes Kurson, Ltd., Chicago, Illinois.

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

For Respondents Raymond James Financial Services, Inc. (“RJFS”) and Raymond James & Associates, Inc. (“RJA”): Robert M. Rudnicki, Esq., Raymond James, St. Petersburg, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: March 24, 2021.  
Claimant signed the Submission Agreement: March 24, 2021.

Statement of Answer filed by Respondent PEG on or about: May 10, 2021.  
Respondent PEG did not sign the Submission Agreement.

Statement of Answer filed by Respondent UBS on or about: April 19, 2021.  
Respondent UBS signed the Submission Agreement: March 25, 2021.

Statement of Answer filed by Respondent RJFS on or about: April 6, 2021.  
Respondent RJFS signed the Submission Agreement: April 6, 2021.

Amended Statement of Claim filed on or about: November 2, 2021.

Statement of Answer filed by Respondent RJA on or about: November 9, 2021.  
Respondent RJA signed the Submission Agreement: November 9, 2021.

### **CASE SUMMARY**

In the Statement of Claim, as amended, 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, Respondent PEG took no position on Claimant's expungement request, but objected to Claimant's request for an award of any other relief against PEG.

In the Statement of Answer, Respondent UBS did not oppose Claimant's expungement request, but objected to any request for damages.

In the Statement of Answer, Respondent RJFS did not oppose Claimant's expungement request.

In the Statement of Answer, Respondent RJA did not oppose Claimant's expungement request.

### **RELIEF REQUESTED**

In the Statement of Claim, as amended, Claimant requested: expungement of Occurrence Numbers 91529, 1229865, 1574497, and 2038105 from his CRD record, pursuant to FINRA Rules 2080(b)(1)(A) and (C); the deletion of any Disclosure Reporting pages accompanying Occurrence Numbers 91529, 1229865, 1574497, and 2038105; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent PEG requested the denial of any potential request for damages, attorneys' fees, and/or costs, and the Arbitrator, pursuant to Rule 13805(d), assess against Claimant all forum fees for hearing sessions in this matter.

In the Statement of Answer, Respondent UBS requested that all costs and fees associated with this claim be assessed solely against Claimant.

In the Statement of Answer, Respondent RJFS requested that all fees be assessed to Claimant.

In the Statement of Answer, Respondent RJA requested that all fees be assessed to Claimant.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

Respondent PEG did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure (“Code”) and, having answered the claim, appeared, and testified at the hearing, is bound by the determination of the Arbitrator on all issues submitted.

On October 4, 2021, Claimant filed an Affidavit confirming that the customers in Occurrence Numbers 91529 (“Customer A”), 1229865 (“Customer B”), 1574497 (“Customer C”), and 2038105 (“Customer D”), hereinafter collectively as the “Customers,” were served with the Statement of Claim and notice of the date and time of the expungement hearing. On October 6, 2021, Claimant advised that Customer A was re-served with the Statement of Claim and notice of the date and time of the expungement hearing. On October 11, 2021, Claimant filed an Affidavit confirming that Customer A was served with the Statement of Claim and notice of the date and time of the expungement hearing. On October 12, 2021, Claimant filed a letter and an Affidavit detailing their efforts to locate and serve Customer A and stating that all avenues for locating Customer A have been exhausted. On November 18, 2021, Claimant advised that follow-up service was sent to Customer C. On November 22, 2021, Claimant filed an Affidavit confirming that Customers B, C, and D were served with the Statement of Claim and notice of the date and time of the expungement hearing.

On October 26, 2021, Claimant filed a Motion to Amend Statement of Claim to add RJA as a Respondent. On November 2, 2021, the Arbitrator entered an Order granting the Motion.

On October 28, 2021, Respondents RJFS and RJA filed notice of their intent to not participate in the expungement hearing.

On October 28, 2021, Respondent UBS filed notice of its intent to not participate in the expungement hearing.

On November 23, 2021, Claimant filed notice that he does not have copies of the settlement agreements for Occurrence Numbers 91529 and 1229865, which corresponds with Respondents PEG and UBS, respectively, and that Respondents PEG and UBS confirmed in writing that they do not have any documents related to their corresponding Occurrence Numbers.

The Arbitrator conducted a recorded, telephonic hearing on December 16, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondent PEG participated in the expungement hearing and as stated in the Statement of Answer, took no position on the request for expungement.

Respondents UBS, RJFS, and RJA did not participate in the expungement hearing. The Arbitrator found that Respondents UBS, RJFS, and RJA had notice of the expungement request and hearing.

The Customers also 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 1574497 and 2038105, 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.

The Arbitrator did not review the settlement documentation related to Occurrence Numbers 91529 and 1229865. Claimant was unable to produce the settlement documentation related to these Occurrence Numbers, and Respondents PEG and UBS were unable to produce any responsive documentation for Occurrence Numbers 91529 and 1229865, respectively. The Arbitrator was satisfied with Claimant's attempts to obtain the settlement documents. The Arbitrator noted, based on Claimant's testimony, 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: all pleadings and documents filed by Claimant.

### **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 91529, 1229865, 1574497, and 2038105 from registration records maintained by the CRD for Claimant Jim King Mui (CRD Number 1007131) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jim King Mui 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:

Claimant has been a financial services professional since 1985. Claimant testified that it is his common business practice to ensure all investments he recommends are suitable. Also, Claimant testified that he never guaranteed the safety of any investment and fully explained the risks associated with a recommended investment. Lastly, Claimant testified that he never

contributed any personal money towards any settlement made by his employers, in any of the customer complaints listed in his CRD.

The Customers listed in the Statement of Claim were notified of the expungement hearing held in this case. None of the Customers elected to appear at the expungement hearing. Respondents UBS, RJFS, and RJA filed pleadings, each stating that they elected not to appear at the hearing. Respondent PEG appeared at the expungement hearing.

Occurrence Number 91529:

Based upon the preponderance of evidence presented, the Arbitrator recommends expungement of Occurrence Number 91529. The allegations set forth in Customer A's complaint, reflected in Claimant's CRD, are false. Claimant fully explained the risks associated with the limited partnership and at no time guaranteed the safety or future performance of the specific investment. Also, due to Customer A purchasing additional shares in the limited partnership, the limited partnership represented only a small portion of Customer A's total net worth. This investment was an appropriate recommendation by Claimant.

Occurrence Number 1229865:

Based upon the preponderance of evidence presented, the Arbitrator recommends expungement of Occurrence Number 1229865. The allegations set forth in Customer B's complaint, reflected in Claimant's CRD, are false. Claimant fully explained, on several occasions, the penalties associated with prematurely withdrawing funds from her individual retirement account ("IRA"). Also, while ultimately responsible for his assistant's actions, Claimant was unaware that Customer B spoke with his assistant directly, and Customer B directed the assistant to withdraw the funds from her IRA. Had Customer B spoken with Claimant, Claimant testified that he would have advised her of the penalties and other financial implications associated with an early withdrawal from her IRA.

Occurrence Number 1574497:

Based upon the preponderance of evidence presented, the Arbitrator recommends expungement of Occurrence Number 1574497. The allegations set forth in Customer C's complaint, reflected in Claimant's CRD, are false and clearly erroneous. Claimant fully explained the risks associated with the auction rate security and at no time guaranteed the safety or future performance of the specific investment. This investment was an appropriate recommendation by Claimant at the time it was made. The evidence presented reflected the change in the market for auction rate securities. As such, similar to other brokerage firms, Respondent RJFS repurchased all of Customer C's auction rate securities. Also, Customer C remained a customer with Claimant, after Respondent RJFS resolved Customer C's complaint.

Occurrence Number 2038105:

Based upon the preponderance of evidence presented, the Arbitrator recommends expungement of Occurrence Number 2038105. The allegations set forth in Customer D's complaint, reflected in Claimant's CRD, are false. Customer D was a customer of Claimant

for almost twenty (20) years. Claimant fully explained the purpose of the annuity and had repeated conversations with Customer D about the life insurance benefits of the annuity, as well as the tax consequences of selling it. In spite of these repeated warnings, Customer D instructed Claimant to liquidate the annuity. In spite of all this, Customer D's son filed a complaint against Claimant, alleging that Claimant improperly recommended the liquidation of the annuity. The Arbitrator found this to be clearly false.

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) pre-hearing session with a single Arbitrator @ \$1,125.00/session = \$ 1,125.00  
Pre-Hearing Conference: July 19, 2021 1 session

One (1) hearing session on expungement request @ \$1,125.00/session = \$ 1,125.00  
Hearing: December 16, 2021 1 session

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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**

Steven N. Ainbinder

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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**

***Steven N. Ainbinder***

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Steven N. Ainbinder  
Sole Public Arbitrator

**12/22/2021**

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Signature Date

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December 23, 2021

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