

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

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In the Matter of the Arbitration Between:

Claimant  
Thomas Roe Cosinuke

Case Number: 21-00897

vs.

Respondent  
UBS Financial Services Inc.

Hearing Site: Montpelier, Vermont

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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. Member

**REPRESENTATION OF PARTIES**

For Claimant Thomas Roe Cosinuke: Dochter Kennedy, MBA, J.D., and Harris Freedman, Esq., AdvisorLaw, LLC, Westminster, Colorado.

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

**CASE INFORMATION**

Statement of Claim filed on or about: April 6, 2021.

Thomas Roe Cosinuke signed the Submission Agreement: April 6, 2021.

Statement of Answer filed by Respondent on or about: April 21, 2021.

UBS Financial Services Inc. signed the Submission Agreement: April 7, 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, Respondent did not oppose Claimant’s expungement request.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1594247 and 1597237; delete accompanying Disclosure Reporting Pages; and any and all other relief

that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that all costs and fees be assessed solely against Claimant.

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

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

By correspondence dated May 6, 2021, the parties agreed, pursuant to Rule 13401(c) of the Code of Arbitration Procedure (“Code”), to proceed with a single arbitrator for this matter.

On August 12, 2021, Claimant advised that the customers in Occurrence Numbers 1594247 and 1597237 were served with the Statement of Claim and notice of the date and time of the expungement hearing. On August 16, 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.

The Arbitrator conducted a recorded, telephonic hearing on October 12, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

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

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 1594247 and 1597237, 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: Claimant’s BrokerCheck® Report, the pleadings, Claimant’s testimony, and the 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 1594247 and 1597237 from registration records maintained by the CRD for Claimant Thomas Roe Cosinuke (CRD Number 704650) with the understanding that, pursuant to Notice to Members 04-16, Claimant Thomas Roe Cosinuke 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; and the claim, allegation, or information is false.

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

Both occurrences have the same set of operative facts. Both customers engaged in sophisticated covered call strategies with sizeable stock positions that they did not want to sell despite being advised to diversify. When the underlying stock dramatically appreciated in price, the customers were forced to close out the options positions at a loss. Claimant was not the broker of record on either account nor did he provide the customers with any investment advice. As such, Claimant was not involved in any sales practice violations. In addition, Claimant did not become the branch office supervisor until after the options strategies had been explained to the customers and subsequently established. Both customers filed FINRA arbitrations which were settled by the firm for significant amounts. Claimant did not participate in either settlement. Additionally, neither settlement agreement was conditioned on consent to expungement.

Claimant had no role in the creation or implementation of the covered call strategy, nor did he have any supervisory responsibility over the customers’ accounts at that time. Moreover, the call strategy employed by these customers was suitable for them given their investment objectives and risk tolerances. Claimant also testified as to the negative impact these disclosures have had on his business and development efforts. The interests of consumer protection and awareness being in no way negatively implicated, the undersigned recommends that the above occurrences be expunged.

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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent is 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 26, 2021	1 session
One (1) hearing session on expungement request @ \$1,125.00/session	= \$ 1,125.00
Hearing: October 12, 2021	1 session

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

Robert E. Anderson

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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**

***Robert E. Anderson***

Robert E. Anderson  
Sole Public Arbitrator

**10/19/2021**

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 20, 2021

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