

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

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In the Matter of the Arbitration Between:

Claimant  
Robert Clevenger, Jr.

Case Number: 21-01233

vs.

Respondent  
UBS Financial Services Inc.

Hearing Site: Houston, Texas

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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 Robert Clevenger, Jr. (“Claimant”): David I. Hantman, Esq., Bressler, Amery & Ross, P.C., New York, New York.

For Respondent UBS Financial Services Inc. (“Respondent”): Omar Perez, Esq., UBS Business Solutions US LLC, Nashville, Tennessee.

**CASE INFORMATION**

Statement of Claim filed on or about: May 11, 2021.

Claimant signed the Submission Agreement: May 11, 2021.

Statement of Answer filed on or about: May 20, 2021.

Respondent signed the Submission Agreement: May 21, 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 Number 1135712.

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

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

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

On May 21, 2021, the parties filed an agreement to proceed with a single Arbitrator.

On January 11, 2022, Claimant advised that the customer in Occurrence Number 1135712 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). Also, Claimant filed a FedEx proof of delivery confirming that the Customer was served with the Notice.

The Arbitrator conducted a recorded, telephonic on February 8, 2022, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing.

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 noted that the dispute related to Occurrence Number 1135712 was not settled and, therefore, there was no settlement documentation to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony; the Investor Profile Questionnaire, the Investment Experience/Allocation document, the Investor Presentation Documents and the various other documents introduced into evidence at the hearing as Claimant's Exhibits A-K.

### **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:

The Arbitrator recommends the expungement of all references to Occurrence Number 1135712 from registration records maintained by the CRD for Claimant Robert Clevenger, Jr. (CRD Number 2187523) with the understanding that, pursuant to Notice to Members 04-16, Claimant Robert Clevenger, Jr. 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:

The uncontroverted testimony and the documents introduced at the expungement hearing showed by a preponderance of the evidence that Claimant provided the Customer with an investment strategy that was consistent with the objectives that she verbally expressed to him and which were evidenced by the various new account documents executed by her when opening her account with him. The evidence introduced at the hearing showed that the Customer became impatient with the investment plan she had requested, and which had been structured by Claimant, and chose to take over and manage her investments; however, there was no showing of misrepresentation or wrongdoing by Claimant. The Arbitrator finds that the claim is clearly erroneous and the claim by the Customer is false.

### **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	= \$	1,600.00
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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 a party, Respondent is assessed the following:

Member Surcharge	= \$	2,000.00
Member Process Fee	= \$	3,850.00

#### **Late Pre-Hearing Cancellation Fees**

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

September 24, 2021, cancellation requested by the parties	= \$	100.00
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Total Late Pre-Hearing Cancellation Fees	= \$	100.00
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The Arbitrator has assessed the total late pre-hearing cancellation fees to Claimant.

**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 @ \$1,150.00/session	= \$	1,150.00
Hearing: February 8, 2022 1 session		
<b>Total Hearing Session Fees</b>	<b>= \$</b>	<b>1,150.00</b>

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**

G. Maynard Green

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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**

***G. Maynard Green***

G. Maynard Green  
Sole Public Arbitrator

**02/15/2022**

Signature Date

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February 15, 2022

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