

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

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In the Matter of the Arbitration Between:

Claimants

Kalyn Ashley Walker  
Perry A. Zeigler

Case Number: 21-01239

vs.

Respondent

UBS Financial Services Inc.

Hearing Site: San Diego, California

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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 Persons vs. Member

**REPRESENTATION OF PARTIES**

For Claimants Kalyn Ashley Walker (“Walker”) and Perry A. Zeigler (“Zeigler”): David I. Hantman, Esq., Bressler, Amery & Ross, P.C., New York, New York.

Hereinafter, Walker and Zeigler are collectively referred to as “Claimants.”

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

**CASE INFORMATION**

Statement of Claim filed on or about: May 11, 2021.  
Claimants signed the Submission Agreement: May 11, 2021.

Statement of Answer filed by Respondent on or about: May 19, 2021.  
Respondent did not sign the Submission Agreement.

**CASE SUMMARY**

In the Statement of Claim, Claimants 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 Claimants’ expungement request.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimants requested:

1. Expungement of Occurrence Number 2096575 from Walker's CRD records pursuant to FINRA Rule 2080(b)(1)(A)-(C); and
2. Expungement of Occurrence Number 2096961 from Zeigler's CRD records pursuant to FINRA Rule 2080(b)(1)(A)-(C).

In the Statement of Answer, Respondent requested all costs and fees associated with the claim be assessed against Claimants.

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

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

Respondent 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 and appeared, is bound by the determination of the Arbitrator on all issues submitted.

On June 16, 2021, Claimants advised that the customer in Occurrence Numbers 2096575 and 2096961 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing.

On June 17, 2021, the Customer submitted a written statement supporting Claimants' expungement request.

The Arbitrator conducted a recorded, telephonic hearing on July 12, 2021, so the parties could present oral argument and evidence on Claimants' request for expungement.

Respondent did not participate in the expungement hearing.

The Customer also did not participate in the expungement hearing. The Arbitrator found that the Customer had notice of the expungement request and hearing.

The Arbitrator reviewed Claimants' BrokerCheck® Reports. 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 2096575 and 2096961, 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 Claimants did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: pleadings; Claimants' exhibits; Claimants' testimony; and Claimants' BrokerCheck® Reports.

## AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, 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 2096575 from registration records maintained by the CRD for Claimant Kalyn Ashley Walker (CRD Number 5385963) with the understanding that, pursuant to Notice to Members 04-16, Claimant Kalyn Ashley Walker must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

The Arbitrator recommends the expungement of all references to Occurrence Number 2096961 from registration records maintained by the CRD for Claimant Perry A. Zeigler (CRD Number 2360617) with the understanding that, pursuant to Notice to Members 04-16, Claimant Perry A. Zeigler 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 alleges investments recommended did not match his account objective nor risk tolerance profile and represented a conflict of interest. The Customer's complaint correspondence dated October 20, 2020, cited losses after a broad market downturn from his investments in late February 2020, including Zacks Guggenheim Income Strategy Series 49 Unit Investment Trust ("Zacks UIT") and Royal Dutch Shell, and expressed concern that he did not receive trade confirmations or prospectuses with the purchase of Zacks UIT.

The Customer's allegations are false and clearly erroneous because:

- a. The Customer held two non-discretionary trust accounts with Respondent and thus, had to approve, and did approve, every investment in his portfolio. The Customer specifically directed and authorized each transaction made in his account. The Customer received a trade confirmation upon each transaction in his account from Respondent, as well as monthly statements, portfolio reviews

and year-end statements that detailed all activities in the account. Prospectuses for each Zacks UIT purchase, which contained important information about the nature and risks of the investment, were enclosed with the trade confirmation or provided under separate cover sent by Respondent, with which Claimants had no role.

- b. Prior to opening the accounts in 2015, Claimants reviewed Customer's investment objectives, risk tolerance, financial experience, liquid net worth and goals with the Customer. The Customer reported significant investment experience with investment objectives of current income and capital appreciation, along with a moderately aggressive risk profile. Claimants subsequently maintained an ongoing dialogue with the Customer and discussed various investments that would satisfy his desire for income with potential for capital appreciation.
- c. The Customer maintained a balanced, well-diversified portfolio at Respondent and periodically requested research on select stocks and placed trades on an unsolicited basis. Claimants recommended the Zacks UIT as an appropriate diversified investment for a small portion of the overall portfolio, just 10%, given the UIT stated objective to provide current income with the potential for capital appreciation. The Customer made three sequential investments in Zacks UITs in November 2016, November 2018, and February 2020, with respective gains at maturity of 16%, 9%, and 7%. Claimants also recommended Royal Dutch Shell equity as appropriate based on Respondent's research, for 1.7% of the overall portfolio, to provide possible appreciation with good dividend.
- d. Respondent's performance review reported that in November 2020, when the account was closed, the Customer realized a net profit on his overall portfolio with a cumulative return of more than 36%, and an average annual return of approximately 6.5%.

Claimants performed their duties as representatives in an ethical and professional manner.

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 for Walker	= \$	1,600.00
Expungement Filing Fee for Zeigler	= \$	1,600.00

*\*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(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

**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: July 12, 2021 1 session		

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Total Hearing Session Fees	= \$	1,150.00
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The Arbitrator has assessed \$575.00 of the hearing session fees to Walker.

The Arbitrator has assessed \$575.00 of the hearing session fess to Ziegler.

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

**ARBITRATOR**

Erik R. Siering

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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**

***Erik R. Siering***

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Erik R. Siering  
Sole Public Arbitrator

**07/30/2021**

\_\_\_\_\_  
Signature Date

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July 30, 2021

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