

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

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In the Matter of the Arbitration Between:

Claimant

Angel Manuel Canabal, Sr.

Case Number: 21-01247

vs.

Respondent

UBS Financial Services Incorporated of Puerto Rico

Hearing Site: San Juan, Puerto Rico

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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 Angel Manuel Canabal, Sr.: Russell Del Toro Parra, III, Esq. and Linette Figueroa-Torres, Esq., Toro Colon Mullet, PSC, San Juan, Puerto Rico.

For Respondent UBS Financial Services Incorporated of Puerto Rico: Rey F. Medina Vélez, Esq., UBS Financial Services Incorporated of Puerto Rico, San Juan, Puerto Rico.

**CASE INFORMATION**

Statement of Claim filed on or about: May 12, 2021.

Angel Manuel Canabal, Sr. signed the Submission Agreement: May 12, 2021.

Statement of Answer filed by Respondent on or about: May 25, 2021.

UBS Financial Services Incorporated of Puerto Rico signed the Submission Agreement: May 25, 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 supported Claimant’s expungement request.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1703417, 1690693, 1710154, 1712331, 1712332, 1728878, 1731525, and 1733661.

In the Statement of Answer, Respondent did not delineate a relief request.

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

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

On May 26, 2021, the parties filed a stipulation to have this matter decided by a sole public arbitrator.

On November 24, 2021 and December 13, 2021, Claimant advised that the customers in Occurrence Numbers 1703417, 1690693, 1710154, 1712331, 1712332, 1728878, 1731525, and 1733661 (collectively "Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing. Claimant further advised that counsel for the underlying customers in Occurrence Numbers 1690693, 1731525, 1728878, and 1712331 notified Claimant via email that they would not be participating in the expungement proceedings.

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

The Customers 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 1703417, 1690693, 1710154, 1712331, 1712332, 1728878, 1731525, and 1733661, 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; information/prospectus on bond funds supplied by Respondent; the complaints filed in all eight matters by counsel for the Customers; Respondent's Answers and the settlement documents; and the Customer's account statements.

### **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 1703417, 1690693, 1710154, 1712331, 1712332, 1728878, 1731525, and 1733661. from registration records maintained by the CRD for Claimant Angel Manuel Canabal, Sr. (CRD Number 2180310) with the understanding that, pursuant to Notice to Members 04-16, Claimant Angel Manuel Canabal, Sr. 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:

As a general finding, Claimant testified as to the comprehensive and complete advice provided to all the Customers where expungement is being sought here, including discussion of risk and details about the specific market(s) being invested in. As Puerto Rican residents are provided distinct tax benefits from certain investments, customers are usually hesitant to change those investments (and investment strategies) over time despite brokers' recommendations to diversify holdings. With the collapse of the Puerto Rican bond market in 2013, many Puerto Rican resident customers saw decreases in holdings giving rise to action brought against the brokerage and tangentially the brokers involved. Each settlement made by Respondent with these Customers was for far less than the initial demand made in their arbitration complaints.

#### Occurrence Number 1703417

These were Customers with moderate risk tolerance, seeking income and capital appreciation who had monetary gains in their account with Claimant at Respondent's brokerage when they transferred the account to a different brokerage in 2009 (well before the collapse of the market). Claimant and Respondent clearly had nothing to do with any losses.

#### Occurrence Number 1690693

The Customer made little changes to the structure of the portfolio over a decade of investing. The account was net profitable for the Customer, who further decided to ignore recommendations of diversification made by the Claimant.

#### Occurrence Number 1710154

The Customer was long-time friend of the Claimant. Diversification suggestions were for the most part ignored due to the tax advantaged nature of the account. The Customer further

had a line of credit secured by the investment account which was used for supplemental liquidity for household items. With the bond market's collapse, the losses mounted due both to the lack of account liquidity and the obligation to pay back the line of credit.

Occurrence Number 1712331

The Customer was looking for tax free income with a moderate to aggressive investment approach. Recommendations to diversify were ignored resulting in losses upon the Puerto Rico bond market collapse.

Occurrence Number 1712332

The Customers inherited their father's account upon his passing and actually showed moderate to substantial gains in the portfolio prior to the father's passing. Claimant at bar recommended diversification which was largely ignored.

Occurrence Number 1728878

These Customers are retirees looking for regular income without any tax liability. They were for the most part "hands off" with the account, preferring tax exemption to diversification as recommended. They remain clients of Claimant.

Occurrence Number 1731525

These customers are highly educated retirees who came to Claimant initially dissatisfied with bank returns on funds. They purchased securities in 2010 and held them through the 2013 Puerto Rico bond collapse. Advice provided by Claimant was ignored. The Customers still remain clients of Claimant.

Occurrence Number 1733661

This Customer was a well-known and established communication person in Puerto Rico (now deceased) who made most of his investments with a different brokerage firm prior to his transfer to Respondent. Furthermore, upon transferring his accounts to Respondent, the Customer maintained two completely separate accounts with Claimant and a different broker (with one broker not knowing the account content of the other account), which would make coming up with a "fit" investment plan almost impossible.

2. Respondent is liable for and shall reimburse Claimant the sum of \$400.00, representing the non-refundable portion of the initial claim filing fee previously paid by Claimant 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:

Initial Claim Filing Fee =\$ 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) pre-hearing session with a single Arbitrator @ \$1,150.00/session	= \$ 1,150.00
Pre-Hearing Conference: August 31, 2021	1 session

Two (2) hearing sessions on expungement request @ \$1,150.00/session	= \$ 2,300.00
Hearing: December 16, 2021	2 sessions

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Total Hearing Session Fees	= \$ 3,450.00
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Pursuant to the agreement of the parties, the Arbitrator has assessed the total hearing session fees to Respondent.

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

**ARBITRATOR**

Louis David Huss

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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**

***Louis David Huss***

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Louis David Huss  
Sole Public Arbitrator

**12/21/2021**

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Signature Date

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December 21, 2021

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