

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Victor Miguel Tomassini

Case Number: 21-01386

vs.

Respondents
UBS Financial Services Incorporated of Puerto Rico
UBS Financial Services, Inc.

Hearing Site: San Juan, Puerto Rico

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 Victor Miguel Tomassini: Sonia M. Lopez del Valle, Esq. and Roberto C. Quinones, Esq., McConnell Valdes, LLC, San Juan, Puerto Rico.

For Respondents UBS Financial Services Incorporated of Puerto Rico (“UBSPR”) and UBS Financial Services, Inc. (“UBS”): Rey F. Medina Velez, Esq., UBS Financial Services Incorporated of Puerto Rico, San Juan, Puerto Rico.

CASE INFORMATION

Statement of Claim filed on or about: May 27, 2021.

Victor Miguel Tomassini signed the Submission Agreement: May 27, 2021.

Statement of Answer filed by Respondents on or about: June 3, 2021.

UBSPR signed the Submission Agreement: June 3, 2021.

UBS signed the Submission Agreement: June 3, 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, Respondents supported Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1841816

and 1975717.

In the Statement of Answer, Respondents agreed a finding should be entered by the Arbitrator in favor of Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about November 23, 2021, Claimant advised that counsel for the customers in Occurrence Numbers 1841816 and 1975717 (“Customers”) were served with the Statement of Claim and notice of the date and time of the expungement hearing. On or about November 23, 2021, Claimant filed with FINRA Dispute Resolution Services, proof of service via email and via certified mail upon counsel for the Customers, advising that counsel for 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 December 8, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondents participated in the expungement hearing and, as stated in the Statement of Answer, supported Claimant’s expungement request.

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 1841816 and 1975717, 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 sworn testimony; Claimant’s exhibits introduced into evidence at the expungement hearing; Claimant’s Statement of Claim and exhibits; and Claimant’s supplemental exhibits, comprised of retail statements and chronological transactions.

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 1841816 and 1975717 from registration records maintained by the CRD for Claimant Victor

Miguel Tomassini (CRD Number 2896586) with the understanding that, pursuant to Notice to Members 04-16, Claimant Victor Miguel Tomassini 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 finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

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

Claimant never met the Customers in the underlying FINRA disputes, and Claimant was not the Financial Advisor (“FA”) who placed the non-discretionary trades complained of by the underlying Customers. The trades complained of were placed by other FA’s. Claimant was not a party to the underlying FINRA cases. Claimant did not participate in the settlements of the customer disputes. The Puerto Rican bonds (“PR bonds”) and Closed End Funds (“CEFs”) investments complained of by the Customers were advantageous from a tax perspective to the underlying Customers. Claimant repeatedly recommended diversification away from these PR bonds and CEFs, but Claimant’s advice was ignored. Some of the Customers followed the advice of the Customers’ own independent Certified Public Accountant, who made investment recommendations, not also recommended by Claimant, that the Customers followed. In any event, the PR bonds in the accounts were investment grade and suitable to the underlying Customers.

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 parties, Respondents UBSPR and UBS are each 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: September 28, 2021	1 session	
One (1) hearing session on expungement request @ \$1,150.00/session	= \$	1,150.00
Hearing: December 8, 2021	1 session	
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Total Hearing Session Fees	= \$	2,300.00

The Arbitrator has assessed the total hearing session fees jointly and severally to Respondents UBSPR and UBS.

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

ARBITRATOR

Christopher J. Klein

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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

Christopher J. Klein

Christopher J. Klein
Sole Public Arbitrator

12/10/2021

Signature Date

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December 10, 2021

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