

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Carlos Arturo Pou

Case Number: 21-01429

vs.

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

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 Carlos Arturo Pou: Leany P. Prieto-Rodriguez, Esq. and Roberto C. Quiñones-Rivera, Esq., McConnell Valdés, LLC, San Juan, Puerto Rico.

For Respondents UBS Financial Services, Inc. and 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: June 3, 2021.
Carlos Arturo Pou signed the Submission Agreement: June 2, 2021.

Statement of Answer filed by Respondents on or about: July 8, 2021.
UBS Financial Services, Inc. signed the Submission Agreement: July 8, 2021.
UBS Financial Services Incorporated of Puerto Rico signed the Submission Agreement: July 8, 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 an order recommending that all references to Occurrence Number 1993976 be expunged from Claimant's CRD record.

In the Statement of Answer, Respondents requested that a finding should be entered by the presiding 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 November 17, 2021, Claimant advised that the customer in Occurrence Number 1993976 ("Customer") was 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 2, 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, supported the request for expungement.

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 also reviewed the settlement documentation related to Occurrence Number 1993976, 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 Claimant did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's BrokerCheck® Report; the Customer's Statement of Claim and Respondent's Statement of Answer; Respondent's internal audit reports; settlement documentation and release of the Customer's claim; Respondent's Customer account information, account statements, account confirmations, portfolio review documents, bond prospectus, and translated emails; and Claimant's testimony.

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 Number 1993976 from registration records maintained by the CRD for Claimant Carlos Arturo Pou (CRD Number 2096091) with the understanding that, pursuant to Notice to Members 04-16, Claimant Carlos Arturo Pou 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:

Claimant made recommendations regarding bond investments in the Puerto Rico market, consistently suggesting the Customer diversify his holdings out of Puerto Rico concentration. The goal of the investment account was capital appreciation and to produce income to support the Customer's lifestyle. The Customer actually showed net profits in his account at the time of the transfer of the account to a different brokerage firm, which was prior to the collapse of the Puerto Rico bond market. Though Claimant suggested diversification to the Customer, the Customer failed to follow those recommendations.

Claimant was not responsible for any of the losses suffered by the Customer. The Customer had a fairly "expensive" lifestyle, and the returns Claimant was getting for the Customer clearly indicated that the Customer was not only getting a decent rate of return but was making a profit on investments. Though Claimant consistently recommended further diversification of the Customer's holding, the Customer failed to follow this advice. Eventually, and chronologically before the Puerto Rico bond debacle, the Customer moved his holding to a different brokerage firm. Clearly, Claimant was not the cause of the Customer's eventual losses and the matter settled without Claimant's input or contribution.

2. Respondents are jointly and severally liable for and shall pay to Claimant \$400.00 to reimburse Claimant for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.
3. 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 = \$ 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 firms that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as parties, Respondents 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 2, 2021 1 session

Total Hearing Session Fees = \$ 2,300.00

The Arbitrator has assessed the total hearing session fees to Respondents jointly and severally, per the Parties' agreement.

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

Louis David Huss
Sole Public Arbitrator

12/12/2021

Signature Date

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December 13, 2021

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