

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Ricardo Eboli-Kodesh

Case Number: 21-01843

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 Ricardo Eboli-Kodesh: Leany Prieto-Rodriguez, Esq. and Roberto C. Quiñones-Rivera, 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: July 20, 2021.

Amended Statement of Claim filed on or about: February 3, 2022.

Ricardo Eboli-Kodesh signed the Submission Agreement: July 20, 2021.

Statement of Answer filed by Respondents on or about: August 2, 2021.

UBSPR signed the Submission Agreement: August 2, 2021.

UBS signed the Submission Agreement: August 2, 2021.

CASE SUMMARY

In the Statement of Claim, as amended, 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, as amended, Claimant requested expungement of Occurrence Numbers 1788325, 1831211, 1874101, 1853378, 1956047, 1971725, 1895321, 1853375, 1917931, 1993153, 1853376, 1890512, 1861321, 1937181, 1817696, 1864361, 1987086, 1987085, 2022043 and 1962423.

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

During the hearing, Claimant withdrew the request for expungement of Occurrence Number 1817696.

During the hearing, Claimant requested expungement of Occurrence Number 1869979, which the Arbitrator deemed as a Motion for Leave to Amend Statement of Claim, which was granted by the Arbitrator.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about February 3, 2022, Claimant filed a Motion for Leave to Amend Statement of Claim. No opposition was filed by Respondents. On or about February 3, 2022, the Arbitrator issued an Order that granted the Motion for Leave to Amend Statement of Claim.

On or about February 7, 2022, Claimant advised that counsel for the customers in Occurrence Numbers 1788325, 1831211, 1874101, 1853378, 1956047, 1971725, 1895321, 1853375, 1917931, 1993153, 1853376, 1890512, 1861321, 1937181, 1869979, 1864361, 1987086, 1987085, 2022043 and 1962423 ("Customers") were served with the Statement of Claim, as amended, and notice of the date and time of the expungement hearing. On or about February 7, 2022, Claimant filed with FINRA Dispute Resolution Services a Declaration, along with proof of service via email and via certified mail upon counsel for the underlying Customers, advising that counsel for the Customers were served with the Statement of Claim, as amended, and notice of the date and time of the expungement hearing.

The Arbitrator conducted recorded, telephonic hearings on February 9, 2022, and February 10, 2022, 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 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 1788325, 1831211, 1874101, 1853378, 1956047, 1971725, 1895321, 1853375, 1917931, 1993153, 1853376, 1890512, 1861321, 1937181, 1869979, 1864361, 1987086, 1987085 and 1962423, 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.

The Arbitrator noted that the dispute related to Occurrence Number 2022043 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim and Exhibits, as amended; the live testimony of Claimant; and the extensive live testimony of witness Rocio Rivera ("Rivera"). Rivera was the former ten-year (approximately) administrator of a group of Financial Advisors ("FAs") known as the Almonte Team ("Almonte Team"), who testified that Claimant did not give any investment advice to any of the Customers in the underlying actions ("Actions"). Rivera testified that the Customers in the Actions were given investment advice by other FAs at Respondents. Claimant and Rivera testified that although Claimant was, at times, technically part of the Almonte Team, Claimant did not give investment recommendations or financial advice to the Customers in the Actions. The testimony of Claimant and Rivera was consistent with, without limitation, Claimant's Supplemental Exhibits E through J and Exhibits L through Z to Claimant's Statement of Claim, as amended, which Exhibits were relied upon by the Arbitrator in rendering this decision.

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 1788325, 1831211, 1874101, 1853378, 1956047, 1971725, 1895321, 1853375, 1917931, 1993153, 1853376, 1890512, 1861321, 1937181, 1869979, 1864361, 1987086, 1987085, 2022043 and 1962423 from registration records maintained by the CRD for Claimant Ricardo Eboli-Kodesh (CRD Number 4313868) with the understanding that, pursuant to Notice to Members 04-16, Claimant Ricardo Eboli-Kodesh 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 was not one of the FAs for any of the Customers in the Actions. Claimant was not a party in any of the Actions, and Claimant did not participate in the settlements of any of the Actions. Claimant did not provide any investment recommendations nor any financial advice to any of the Customers who filed the Actions. Rather, the Customers who filed the Actions received investment recommendations and financial advice from FAs other than Claimant. The Arbitrator found that the mere fact that Claimant was, at times, part of the Almonte Team does not make Claimant responsible for investment recommendations or financial advice given by other FAs on the team to various Customers in the Actions. As such, the claims raised in the Actions were factually impossible, clearly erroneous and false insofar as they pertained to Claimant. Respondents did not oppose Claimant's Statement of Claim, as amended.

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: November 3, 2021	1 session	
Two (2) hearing sessions on expungement request @ \$1,150.00/session	= \$	2,300.00
Hearings: February 9, 2022	1 session	
February 10, 2022	1 session	
Total Hearing Session Fees	= \$	3,450.00

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

02/12/2022

Signature Date

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February 14, 2022

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