

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Javier Garcia

Case Number: 21-01874

vs.

Respondent
UBS International Inc.

Hearing Site: Boca Raton, Florida

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

This case was decided by a majority-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

Claimant Javier Garcia appeared pro se.

For Respondent UBS International Inc.: John B. Clark, Esq., UBS Business Solutions, Nashville, Tennessee.

CASE INFORMATION

Statement of Claim filed on or about: July 22, 2021.

Javier Garcia signed the Submission Agreement: July 22, 2021.

Statement of Answer filed by Respondent on or about: September 29, 2021.

UBS International Inc. signed the Submission Agreement: September 29, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of information from his Form U5 registration records maintained by the Central Registration Depository (“CRD”).

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested the removal of the termination disclosure for Occurrence Number 1439545 on his CRD Form U5.

In the Statement of Answer, Respondent requested: dismissal of the Statement of Claim in its entirety; an award of costs incurred by Respondent in defending this action; and any and all other appropriate relief to which Respondent may be entitled.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On February 14, 2022, Respondent filed a Motion to Convert Hearing to Zoom Hearing in which it asserted, among other things, that the evidentiary hearing should be held by Zoom videoconference based on the COVID-19 Pandemic. Also on February 14, 2022, Claimant filed his agreement to Respondent's Motion. On March 1, 2022, the Panel issued an Order in which it granted Respondent's agreed Motion to Convert Hearing to Zoom Hearing.

At the close of Claimant's case-in-chief during the March 7, 2022, expungement hearing, Respondent UBS International, Inc. made an ore tenus Motion to Dismiss pursuant to Rule 13206 of the Code of Arbitration Procedure ("Code"). Claimant replied that he was not aware of the eligibility requirements of the Code and that he had no prior reason to seek expungement, as he was able to find employment. Thereafter, the Panel granted the Motion to Dismiss on the grounds that it lacked subject matter jurisdiction because the claim was brought outside of the six-year limit to bring claims pursuant to FINRA Rule 13206(a).

Respondent's Motion to Dismiss pursuant to Rule 13206 of the Code is granted by the Panel without prejudice to any right Claimant has to file in court; Claimant is not prohibited from pursuing his claims in court pursuant to Rule 13206(b) of the Code.

The Panel has provided an explanation of the decision in this award. The explanation is for the information of the parties only and is not precedential in nature.

The Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's request for expungement of the termination disclosure for Occurrence Number 1439545 from his CRD Form U5 is hereby dismissed.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, 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:

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 a party, Respondent UBS International, Inc. is assessed the following:

Member Surcharge	=\$ 2,000.00
Member Process Fee	=\$ 3,850.00

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator(s), including a pre-hearing conference with the Arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the Panel @ \$1,150.00/session	=\$ 1,150.00
Pre-Hearing Conference: November 2, 2021 1 session	
One (1) hearing session @ \$1,150.00/session	=\$ 1,150.00
Hearing: March 7, 2022 1 session	
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Total Hearing Session Fees	=\$ 2,300.00

The Panel has assessed the total hearing session fees to Claimant.

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

ARBITRATION PANEL

Virginia Lee Perez-Berry	-	Public Arbitrator, Presiding Chairperson
William Kent Brown	-	Public Arbitrator
Scott Joseph Pagano	-	Non-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.

Concurring Arbitrators' Signatures

Virginia Lee Perez-Berry

Virginia Lee Perez-Berry
Public Arbitrator, Presiding Chairperson

03/16/2022

Signature Date

William Kent Brown

William Kent Brown
Public Arbitrator

03/16/2022

Signature Date

Scott Joseph Pagano

Scott Joseph Pagano
Non-Public Arbitrator

03/16/2022

Signature Date

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March 16, 2022

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