

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Eduardo E. Caban Silva

Case Number: 21-01937

vs.

Respondents

UBS Financial Services Inc.
UBS Financial Services Incorporated of Puerto 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 Eduardo E. Caban Silva: Roberto C. Quiñones, Esq. and Sonia M. López Del Valle, Esq., McConnell Valdes LLC, San Juan, Puerto Rico.

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

CASE INFORMATION

Statement of Claim filed on or about: July 29, 2021.

Eduardo E. Caban Silva signed the Submission Agreement: July 29, 2021.

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

UBS signed the Submission Agreement: August 2, 2021.

UBSPR signed the Submission Agreement: August 2, 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 1879444, 1879446 and 2039391.

In the Statement of Answer, Respondents requested that Claimant's request for expungement be granted.

OTHER ISSUES CONSIDERED AND DECIDED

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

On January 24, 2022, Claimant advised that the customers in Occurrence Numbers 1879444, 1879446 and 2039391 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 February 3, 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 1879444, 1879446 and 2039391, 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: the Settlement Agreements and pleadings for each underlying complaint (Claimant's exhibits A-E); Claimant's Supplemental Exhibits 1-20 (retail agreements, emails, account trade runs and Claimant's updated BrokerCheck® Report); and Claimant's Proof of Service upon the Underlying Customers.

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 1879444, 1879446 and 2039391 from registration records maintained by the CRD for Claimant Eduardo E. Caban Silva (CRD Number 4759706) with the understanding that, pursuant to Notice to Members 04-16, Claimant 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, as to each occurrence:

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

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 findings based on the following reasons, as to each occurrence:

Claimant did not make any investment recommendations that were involved in these claims. Claimant did not speak or meet with the underlying customers during the relevant periods involved. Claimant did not serve as financial advisor to any of the underlying customers during the relevant periods. Claimant became the broker of record for the underlying customers in October of 2015, after the 2013 market decline.

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
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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 UBS and UBSPR 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 8, 2021 1 session	

One (1) hearing session on expungement request @ \$1,150.00/session	= \$ 1,150.00
Hearing: February 3, 2022 1 session	

Total Hearing Session Fees	= \$ 2,300.00
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Pursuant to the parties' agreement, the Arbitrator has assessed the total hearing session fees jointly and severally to Respondents.

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

ARBITRATOR

Gerald Silverman

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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

Gerald Silverman

Gerald Silverman
Sole Public Arbitrator

02/11/2022

Signature Date

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.

February 11, 2022

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