

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Michael William Chudd

Case Number: 21-02038

vs.

Respondent  
UBS Financial Services Inc.

Hearing Site: Las Vegas, Nevada

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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

**REPRESENTATION OF PARTIES**

For Claimant Michael William Chudd (“Claimant”): David I. Hantman, Esq., Bressler, Amery & Ross, P.C., New York, New York.

For Respondent UBS Financial Services Inc. (“Respondent”): Omar Perez, Esq., UBS Business Solutions US LLC, Nashville, Tennessee.

**CASE INFORMATION**

Statement of Claim filed on or about: August 6, 2021.  
Claimant signed the Submission Agreement: August 6, 2021.

Statement of Answer filed by Respondent on or about: August 16, 2021.  
Respondent signed the Submission Agreement: August 16, 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, Respondent did not oppose Claimant’s expungement request.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1469692 from Claimant's CRD record pursuant to FINRA Rule 2080, as:
  - a. the claim, allegation, or information is factually impossible or clearly erroneous; and/or
  - b. Claimant was not involved in the alleged investment-related sales practice violation, theft, forgery, misappropriation, or conversion of funds; and/or
  - c. the claim, allegation, or information is false.

In the Statement of Answer, Respondent did not set forth a specific request for relief.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On August 16, 2021, prior to the panel appointment, Claimant requested this matter to proceed with a single arbitrator. Respondent did not oppose the request. Therefore, a single arbitrator was appointed in this matter.

On September 14, 2021, Claimant advised that the customer in Occurrence Number 1469692 ("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 October 8, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing.

The Customer also 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 noted that there was no individual settlement agreement related to Occurrence Number 1469692 as the complaint was related to the illiquidity of the Customer's Auction Rate Securities ("ARS") and the complaint was resolved as part of a global settlement between Respondent and securities regulators. The Arbitrator noted that Claimant was not involved in the global settlement agreement and did not contribute to the settlement amount, which was a repurchase of the ARS at par value. The Arbitrator also noted that the settlement was not conditioned on any party to the settlement not opposing the request for expungement.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Statement of Claim; Statement of Answer; Claimant's BrokerCheck® Report; Claimant's exhibits; letter of support from Respondent; service history on the Customer; and oral testimony at the expungement hearing.

## **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:

The Arbitrator recommends the expungement of all references to Occurrence Number 1469692 from registration records maintained by the CRD for Claimant Michael William Chudd (CRD Number 2531241) with the understanding that, pursuant to Notice to Members 04-16, Claimant Michael William Chudd 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:

The Customer complaint concerned an industry-wide loss of liquidity in the market for ARS, for which the financial advisor had no responsibility. Respondent eventually repurchased the securities at par. The securities were an appropriate and well-understood investment as a “cash alternative” with a AAA rating. As liquidity declined, the interest rate went up. The Customer did not lose anything, but rather made money. According to Claimant (hearsay), the Customer expressed regret for complaining and causing the CRD entry on Claimant’s permanent record. Respondent participated in a global settlement (buy-back) in which Claimant did not participate.

## **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.*



**ARBITRATOR**

Kirtley M. Thiesmeyer

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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**

***Kirtley M. Thiesmeyer***

Kirtley M. Thiesmeyer  
Sole Public Arbitrator

**10/13/2021**

Signature Date

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October 13, 2021

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