

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Ronald Francis Giancristofaro

Case Number: 21-02087

vs.

Respondent

UBS Financial Services Inc.

Hearing Site: New York, New York

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 Ronald Francis Giancristofaro: David I. Hantman, Esq., Bressler, Amery & Ross, P.C., New York, New York.

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

CASE INFORMATION

Statement of Claim filed on or about: August 12, 2021.

Ronald Francis Giancristofaro signed the Submission Agreement: August 12, 2021.

Statement of Answer filed by Respondent on or about: August 16, 2021.

UBS Financial Services Inc. 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 expungement of Occurrence Number 2130114.

In the Statement of Answer, Respondent requested that all costs and fees associated with this claim be assessed solely against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

On September 8, 2021, Claimant filed an Affidavit confirming that the customer in Occurrence Number 2130114 were served 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 September 23, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing and, as stated in the Statement of Answer, did not oppose 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 noted that the dispute related to Occurrence Number 2130114 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: the pleadings; the exhibits, including the customer application for Options Qualification, and e-mail correspondence dated June 25, 2021 and September 7, 2021 from the customer indicating that they regretted the initiation of legal proceedings; Claimant's BrokerCheck® Report; 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 2130114 from registration records maintained by the CRD for Claimant Ronald Francis Giancrifaro (CRD Number 2531225) with the understanding that, pursuant to Notice to Members 04-16, Claimant Ronald Francis Giancrifaro 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; and the claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 findings based on the following reasons:

Claimant has established that the purchase of Puts, which led to this dispute, was made as directed by the customer in the customer’s Trust account and could not have been purchased in the customer’s IRA account, since the customer filled out the application for options trading in her Trust account, and all discussions centered around the Trust account.

The customer erroneously claimed that Puts against the market should have been purchased in her IRA rather than her Trust account, after determining the purchase and subsequent profits in the Trust account, which resulted in a taxable event that would not have occurred in the IRA account. The documentary evidence establishes that the customer filled out an application for options trading in the Trust account, not her IRA account, so the purchase could never have been made in the IRA account.

The Arbitrator determined that Claimant has established the claim in question was factually impossible or clearly erroneous.

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

**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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent is 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) hearing session on expungement request @ \$1,150.00/session	= \$	1,150.00
Hearing: September 23, 2021 1 session		

Total Hearing Session Fees	= \$	1,150.00
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The Arbitrator has assessed the total hearing session fees to Claimant.

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

ARBITRATOR

Alice E. Winkler

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Arbitrator's Signature

Alice E. Winkler

Alice E. Winkler
Sole Public Arbitrator

10/01/2021

Signature Date

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October 01, 2021

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