

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

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In the Matter of the Arbitration Between:

Claimants

Jose E. Chaves  
Jose A. Chaves

Case Number: 21-02104

vs.

Respondent

UBS Financial Services Incorporated of  
Puerto Rico

Hearing Site: San Juan, Puerto Rico

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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 Persons vs. Member

**REPRESENTATION OF PARTIES**

For Claimants Jose E. Chaves and Jose A. Chaves: Russell Del Toro Parra, III, Esq., Toro Colon Mullet, P.S.C., San Juan, Puerto Rico.

For Respondent UBS Financial Services Incorporated of Puerto Rico: Sonia M. Lopez del Valle, Esq., McConnell Valdes LLC, San Juan, Puerto Rico.

**CASE INFORMATION**

Statement of Claim filed on or about: August 13, 2021.

Jose E. Chaves signed the Submission Agreement: August 13, 2021.

Jose A. Chaves signed the Submission Agreement: August 13, 2021.

Statement of Answer filed by Respondent on or about: August 20, 2021.

UBS Financial Services Incorporated of Puerto Rico signed the Submission Agreement: August 20, 2021.

**CASE SUMMARY**

In the Statement of Claim, Claimants 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 supported Claimants’ request for expungement.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimants requested expungement of Occurrence Numbers 2044660 and 2044659.

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

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

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

On or about February 11, 2022, Claimants advised that the customers in Occurrence Numbers 2044660 and 2044659 (“Customers”) were served with the Statement of Claim and notice of the date and time of the expungement hearing. On or about February 11, 2022, Claimants 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 and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on March 10, 2022, so the parties could present oral argument and evidence on Claimants’ request for expungement.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, supported Claimants’ 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 Claimants’ BrokerCheck® Reports. 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 2044660 and 2044659, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request and that Claimants did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimants’ Statement of Claim and Respondents’ Answer with regard to FINRA Case Number 19-02181; Settlement Agreement and General Release; June of 2013, Resource Management Account Statement for the Customers; March 31, 2019, Annuity Quarterly Statements for the Customers; and Claimants’ BrokerCheck® Reports.

### **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 2044660 from registration records maintained by the CRD for Claimant Jose E. Chaves (CRD Number 5827677) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jose E. Chaves must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

The Arbitrator recommends the expungement of all references to Occurrence Number 2044659 from registration records maintained by the CRD for Claimant Jose A. Chaves (CRD Number 1854754) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jose A. Chaves 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 regarding both Occurrence Numbers:

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

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

Neither Claimant was involved in the alleged investment-related sales practice violation alleged in the underlying arbitration claim. The Customers’ accounts at issue were opened and serviced by another Financial Advisor (“FA”) who remained on the accounts until mid-2014. At issue in the underlying arbitration claim were losses in those accounts resulting from the decline in the Puerto Rican bond market which began in August of 2013. All of the investments at issue were purchased before Claimants became FAs on the accounts. All of the losses on the investments at issue were incurred in the accounts before Claimants became the FAs on the accounts. Neither Claimant made any recommendation to buy, sell, or hold any of the investments at issue in the underlying arbitration claim. The recommendations which were made by Claimants in the Customers’ accounts were not at issue in the underlying arbitration claim.

### **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 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: March 10, 2022 1 session		
<hr/> Total Hearing Session Fees	= \$	1,150.00

Pursuant to the agreement of the parties, the Arbitrator has assessed the total hearing session fees to Respondent.

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

**ARBITRATOR**

Nancy J. Cliff

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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**

***Nancy J. Cliff***

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Nancy J. Cliff  
Sole Public Arbitrator

**03/14/2022**

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Signature Date

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March 14, 2022

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