

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Gregory R. Kadet

Case Number: 21-02923

vs.

Respondent
UBS Financial Services Inc.

Hearing Site: Tampa, 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

REPRESENTATION OF PARTIES

For Claimant Gregory R. Kadet: David I. Hantman, Esq., Bressler, Amery & Ross, P.C., New York, New York.

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

CASE INFORMATION

Statement of Claim filed on or about: November 24, 2021.
Gregory R. Kadet signed the Submission Agreement: November 24, 2021.

Statement of Answer filed by Respondent on or about: December 15, 2021.
UBS Financial Services Inc. signed the Submission Agreement: December 15, 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 request for expungement and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 991102 and 2146847.

In the Statement of Answer, Respondent requested that all costs and fees associated with Claimant's Statement of 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 or about January 21, 2022, Claimant advised that the customers in Occurrence Numbers 991102 and 2146847 ("Customer A and Customer B") were served with the Statement of Claim and notice of the date and time of the expungement hearing. On or about January 21, 2022, Claimant filed with FINRA Dispute Resolution Services an Affirmation of Service, along with proof of service via FedEx, confirming that Customer A and Customer B were served with the Statement of Claim and notice of the date and time of the expungement hearing.

On or about January 31, 2022, Customer B involved in Occurrence Number 2146847 filed with FINRA Dispute Resolution Services an email that Customer B opposed Claimant's request for expungement and asserted various affirmative defenses.

The Arbitrator conducted a recorded, telephonic hearing on January 31, 2022, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing.

Customer B participated in the expungement hearing and opposed the request for expungement.

Customer A 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 noted that the dispute related to Occurrence Number 991102 was not settled and, therefore, there was no settlement document to review.

The Arbitrator also reviewed the settlement documentation related to Occurrence Number 2146847, 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 Claimant did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony; Claimant's Statement of Claim and Exhibits; Claimant's Expungement Hearing Exhibits, including Customer A's email dated July 10, 2000, and Customer A's letter dated January 21, 2001; Customer B's testimony; and Customer B's email dated January 31, 2022.

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 991102 and 2146847 from registration records maintained by the CRD for Claimant Gregory R. Kadet (CRD Number 2523660) with the understanding that, pursuant to Notice to Members 04-16, Claimant Gregory R. Kadet 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:

Occurrence Number 991102

Churning generally is the practice of performing quick transactions in an account primarily to generate fees for the broker more so than the benefit for the client. In neither Customer A’s email dated July 10, 2000, nor Customer A’s letter dated January 21, 2001, did Customer A provide evidence of Claimant churning Customer A’s account. Likewise, other than allegations regarding losses in two funds, Customer A provided no evidence of Claimant mishandling Customer A’s account. Accordingly, Customer A’s allegations are clearly erroneous and should be expunged.

Occurrence Number 2146847

Claimant testified that during July of 2014, the time period in question, Claimant gave Customer B no investment advice, including advice related to AlphaKeys KKR Energy Income Fund, L.L.C. In Customer B’s testimony, Customer B agreed with this statement. Accordingly, Customer B’s allegations are false and should be expunged.

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(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: January 31, 2022 1 session

Total Hearing Session Fees = \$ 1,150.00

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

Thomas J. Patka

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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

Thomas J. Patka

Thomas J. Patka
Sole Public Arbitrator

02/07/2022

Signature Date

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February 07, 2022

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