

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

---

In the Matter of the Arbitration Between:

Claimant

Kathleen M. Entwistle

Case Number: 21-01993

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 Kathleen M. Entwistle: 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 3, 2021.

Kathleen M. Entwistle signed the Submission Agreement: August 3, 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.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of Occurrence Number 2083591.

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.

The parties agreed that pursuant to Rule 13401(c) of the Code of Arbitration Procedure, this matter would be decided by one arbitrator.

On September 15, 2021, Claimant advised that the customer in Occurrence Number 2083591 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 5, 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 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 also reviewed the settlement documentation related to Occurrence Number 2083591, 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: the pleadings; Claimant's testimony; Claimant's BrokerCheck® Report; and the exhibits, including the Release and Settlement Agreement.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the expungement hearing, 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 2083591 from registration records maintained by the CRD for Claimant Kathleen M. Entwistle (CRD Number 2832985) with the understanding that, pursuant to Notice to Members 04-16, Claimant Kathleen M. Entwistle 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:

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

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

The complaint was an inquiry by the customer’s daughter as to whether a trade was made. There was a conversation on May 13, 2020 between the customer and Claimant about selling a Blackstone closed end mutual fund in another account that was controlled by the customer and using a portion of the proceeds to purchase a security (IAU) in the account at issue which was a discretionary portfolio managed account. The sale required the customer to sign an authorization of sale which was sent to her on May 13, 2020. Claimant left her employment at UBS Financial Services (“UBS”) on May 22, 2020. The required authorization was not received by that date. Even if it had, the purchase of the IAU stock would have been discretionary as to when it would be made.

On May 25, 2020, Claimant notified the customer that she left UBS and gave the customer the contact information of the person who took over the account. After May 22, 2020, Claimant did not have access to the account and could not effectuate any transactions in it. Claimant was not notified of the complaint until it was added to her record. Claimant did not participate in the resolution and did not contribute to it.

The complaint was not made by the customer, but by her daughter who was neither the customer nor a person authorized to act on the account. The IAU stock was \$563.88 higher than it was on May 13, 2020 by May 22, 2020, the date Claimant left UBS. UBS settled the matter by giving the customer a courtesy credit of \$4,860.14, which was the 2020 account management fee charged on the account. In addition to the facts not supporting the claim, the complaint was not made by the customer or person authorized to act on the account and was for less than the \$5,000 which is the minimum required by FINRA Rule 4530 for a matter to be recorded on a broker’s record.

### **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 UBS Financial Services Inc. 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: October 5, 2021 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**

Michael H DuBoff

-

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**

***Michael H DuBoff***

\_\_\_\_\_  
Michael H DuBoff  
Sole Public Arbitrator

**10/06/2021**

\_\_\_\_\_  
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.

October 06, 2021

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