

**UBS Fin. Servs. Inc. v Financial Indus. Regulatory
Auth., Inc.**

2022 NY Slip Op 32867(U)

August 22, 2022

Supreme Court, New York County

Docket Number: Index No. 652493/2022

Judge: Laurence Love

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This opinion is uncorrected and not selected for official publication.

or about June 11, 2019, the Capasses commenced the FINRA Arbitration by filing a statement of claim (the “Statement of Claim”) with the FINRA Office of Dispute Resolution. On or about September 23, 2019, UBS filed its Answer to the Statement of Claim (the “Answer”). On February 7, 2022 Claimants filed a Notice of Voluntary Dismissal with Prejudice. On April 1, 2022, arbitrators Edmund Timothy Donovan, Michael Jaffe, and Sean Farrow, the duly appointed panel in the FINRA Arbitration (the “Panel”), conducted a recorded hearing (the “Hearing”) so the parties could present oral argument, testimony and evidence on UBS’s request for the expungement of Mr. Teixeira’s CRD. As required by FINRA Rule 12805, the Panel, among other things, fully examined the issue of whether the expungement of all references to the FINRA Arbitration from Teixeira’s CRD records was appropriate. Pursuant to CPLR § 7510, Petitioner now seeks confirmation from this court of the arbitration award.

CPLR § 7510

CPLR § 7510 states: “The court shall confirm an award upon application of a party made within one year after its delivery to him, unless the award is vacated or modified upon a ground specified in section 7511.” N.Y. C.P.L.R. § 7510. The First Department, in interpreting CPLR § 7510, gives “the word ‘shall’ its ordinary meaning” and the Court is “directed unequivocally by CPLR 7510 to confirm an arbitration award if a timely application is made whenever the award is not vacated or modified under CPLR 7511.” Bernstein Family Ltd. P’ship v. Sovereign Partners, L.P., 66 A.D.3d 1, 5 (1st Dept 2009). As long as the Respondent is not seeking to vacate or modify the award, the court does not run into the problem of inserting itself into dispute resolution when only confirmation of an arbitration award has been sought. See id at 7.

Here, Petitioner, in seeking the confirmation of the Expungement Award, has satisfied all of the procedural requirements. Petitioner has made a timely application within one year of

receipt of the award. Respondent has had ample notice and has made no motion to modify or to vacate the Expungement Award and does not contest Petitioner's efforts to have the Expungement Award confirmed by this court.

FINRA's Rule and Venue

FINRA Rule 2080(a) provides that a petitioner, who seeks to expunge information from his CRD record, "must obtain an order from a court of competent jurisdiction directing such expungement or confirming an arbitration award containing expungement relief." Additionally, FINRA Rule 2080(b) requires a petitioner seeking expungement under 2080(a) to name FINRA as an additional party and serve FINRA with all appropriate documents, unless FINRA waives this obligation upon request of petitioner. FINRA granted Petitioner's request for a waiver of the obligation to name and serve FINRA. (*See* Petition, Exhibit D.)

Venue is proper as there is no specification giving sole jurisdiction to a different tribunal and the underlying FINRA Arbitration was heard in New York County. See e.g., Big-W Const. Corp. v. Horowitz, 24 Misc. 2d 145, 148 (Sup. Ct. 1959), *aff'd*. 14 A.D.2d 817 (2d Dept 1961) ("In the absence of a specification in a contract or submission to arbitration giving sole jurisdiction to a particular tribunal 'the supreme court for the county in which one of the parties resides or is doing business, or in which the arbitration was held, shall have jurisdiction"). Therefore, this Court has jurisdiction to confirm the Expungement Award.

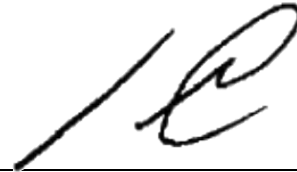
Accordingly, it is,

ORDERED that the petition is granted, and the Expungement Award rendered in favor of Petitioner and against Respondent is confirmed; *and it is further*

ORDERED that this Court directs expungement of all references to Occurrence Number 2040670 from the CRD records for Charles Steven Teixeira (CRD No. 2390851) and BrokerCheck records.

8/22/2022

DATE



LAURENCE LOVE, J.S.C.

CHECK ONE:

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CASE DISPOSED

GRANTED

DENIED

APPLICATION:

SETTLE ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

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NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE