

AWARD
FINRA DISPUTE RESOLUTION

CASE # [REDACTED]
[REDACTED] (Claimant) vs. Morgan Stanley (Respondent)

REPRESENTATION OF PARTIES:

For Claimant [REDACTED]: Dochter Kennedy, Esq. and Lesley Walter, Esq., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent Morgan Stanley: Jeremy S. Winer, Esq., Morgan Stanley, New York, New York.

NATURE OF DISPUTE: Associated Person vs. Member

Statement of Claim filed on or about: September 20, 2016.

CASE SUMMARY: Claimant asserted the following cause of action: expungement.

RELIEF REQUESTED: In the Statement of Claim, Claimant requested compensatory damages in the amount of \$1.00, expungement of his CRD records, and any and all other relief that the Arbitrator deems just and equitable.

AWARD: The undersigned Arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Claimant's request for compensatory damages is denied.
2. The Arbitrator recommends the expungement of all reference to the customer complaint (occurrence number [REDACTED]) from [REDACTED] (CRD # [REDACTED]) registration records maintained by the Central Registration Depository ("CRD"), with the understanding that, pursuant to Notice to Members 04-16 [REDACTED] [REDACTED] 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 12805 of the 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 made the above Rule 2080 findings based on the following reasons:

First, the customer claimed in his complaint that his Client Profile had an "explicit prohibition of equities as an investment vehicle" and that his main investment vehicle was "the preservation of capital". To the contrary, there was no explicit prohibition of equities as an investment vehicle in his client profile. The client profile provides investment objectives (in rank order): capital appreciation, income, aggressive income, and speculation. The risk tolerance is listed as "moderate" and the primary financial need is "wealth accumulation/investment". The definitions in the client profile on risk and return provide: "moderate": Investors willing to subject a portion of their principal to increased risk in order to achieve a greater rate of return. "capital appreciation": For investors seeking capital appreciation with moderate to high risk to principal. Thus, the customer's claim was false and clearly erroneous.

Second, the customer claimed that the investments at issue were solicited by the Claimant. The evidence shows that as early as February 2012 the customer asked Morgan Stanley about equity positions without solicitation: "I am interested in Morgan Stanley opinion as investment advice in FL, EQ, or hybrid with a growth prospective in mind, beside the usual line of strong global companies with strong dividends". In July 2014, in response to customer's request, the Claimant suggested mutual fund investments and said "if you prefer individual equities we can go down that path".

With respect to the investment in Transocean and SDRL, the Claimant testified that the purchase was unsolicited. He also advised the customer to purchase less shares than customer originally requested, taking into account his risk profile. Thus, the customer's claim that the transactions were solicited and outside his investment objectives are false and clearly erroneous.

3. All other relief requests are denied.

OTHER ISSUES: The Arbitrator acknowledges that she has read the pleadings and other materials filed by the parties and by the underlying customer.

The Arbitrator conducted a recorded telephonic expungement hearing on February 9, 2017 so that the parties could present oral argument on Claimant's request for expungement of his CRD record. Claimant's request for expungement of his CRD record was contested by the customer. Respondent did not contest Claimant's request for expungement.

The customer in the underlying claim did not participate in the expungement hearing. The Arbitrator determined that the customer received a copy of the Statement of Claim and received due notice of the expungement hearing and that the hearing would proceed without him present. The Arbitrator reviewed customer's correspondence contesting Claimant's request for expungement.

The Arbitrator reviewed the BrokerCheck Report for Claimant.

Claimant did not previously file a claim requesting expungement of the same disclosure from the CRD.

In recommending expungement, the Arbitrator relied upon the pleadings; the testimony of the Claimant; client profile; report of Morgan Stanley investigation of the claim; denial of the customer's claim; and the BrokerCheck Report for the Claimant.

OTHER FEES: Respondent has paid to FINRA Dispute Resolution the \$150.00 Member Surcharge previously invoiced.

Filing Fees

FINRA Office of Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing Fee	= \$ 50.00
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**The filing fee is made up of a non-refundable and a refundable portion.*

The Arbitrator has assessed the \$50.00 expungement hearing session fee to Claimant.

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

ARBITRATOR

Anna Lascar

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



Anna Lascar
Sole Public Arbitrator

2/25/2017

Signature Date

February 27, 2017

Date of Service (For FINRA-DR office use only)