

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondents

Morgan Stanley
Morgan Stanley & Co., LLC

Hearing Site: Charlotte, North Carolina

Nature of the Dispute: Associated Person vs. Members

REPRESENTATION OF PARTIES

For Claimant ██████████ (“████████”): Armin Sarabi, Esq., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondents Morgan Stanley (“MS”) and Morgan Stanley & Co., LLC (“MSCO”): Kimberly J. Gustafson, Esq., Morgan Stanley, St. Petersburg, Florida.

CASE INFORMATION

Statement of Claim filed on or about: October 26, 2016.
████████ signed the Submission Agreement: October 26, 2016.

Statement of Answer filed by Respondents MS and MSCO on or about: December 29, 2016.
MS and MSCO signed the Submission Agreement: January 5, 2017.

CASE SUMMARY

Claimant asserted the cause of action of inaccurate reporting on his Central Registration Depository (“CRD”) records. The cause of action relates to two customer complaints (Occurrence Numbers ██████████ and ██████████) made by two customers, a son and father (“Customer A” and “Customer B,” respectively). With respect to Occurrence Number ██████████, Customer A alleged that Claimant did not timely contact him with regard to the exercise of put options on stock Customer A held in his account, which led to account losses. With respect to Occurrence Number ██████████, Customer B alleged that Claimant liquidated shares in Customer B’s account pursuant to a margin call without proper authorization. These Occurrence Numbers were recorded on Claimant’s CRD records.

Unless specifically admitted in the Statement of Answer, Respondents MS and MSCO denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Numbers [REDACTED] and [REDACTED] from his CRD record;
2. Compensatory damages in the amount of \$1.00; and
3. Any and all other relief that the Arbitrator deemed just and equitable.

In the Statement of Answer, Respondents MS and MSCO requested that any and all forum fees be assessed against Claimant.

At the hearing, Claimant withdrew his request for \$1.00 in compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges that she has read the pleadings and other materials filed by the parties.

The Arbitrator conducted a recorded telephonic hearing on August 18, 2017, so the parties could present oral argument and evidence on Claimant [REDACTED] request for expungement. Claimant provided Customers A and B with the Statement of Claim and an opportunity to appear at the expungement hearing. The customers did not participate in the expungement hearing and did not contest Claimant's request for expungement. Respondents MS and MSCO appeared at the recorded telephonic hearing, but did not oppose Claimant's request for expungement.

The Arbitrator reviewed the BrokerCheck® Report for Claimant [REDACTED] and the settlement documents, considered the amount of payments made to any party, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on the customers not opposing the request for expungement. The Arbitrator also noted that Claimant [REDACTED] did not contribute to the settlement amount. The Arbitrator further noted that Claimant [REDACTED] did not previously file a claim requesting expungement of the same disclosure in the CRD.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence:

Statement of Claim; the Answer; the April 28, 2008, emails between Customer A and Claimant as well as internal emails between Claimant and Respondent MS from October 21, 2017, through October 27, 2017; the January 12, 2009, letter to Customer B describing investigation findings by Respondent MS; and the undisputed testimony of Claimant.

The Arbitrator has provided an explanation of her decision in this award. The explanation is for the information of the parties only and is not precedential in nature.

AWARD

After considering the pleadings, the testimony and evidence presented at the recorded telephonic hearing, and the post-hearing submissions (if any), 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 [REDACTED] and [REDACTED] from registration records maintained by the CRD for Claimant [REDACTED] (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, [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 of Arbitration Procedure (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 has made the above Rule 2080 findings based on the following reasons:

As to Occurrence Number [REDACTED]:

During the recorded telephonic hearing, Claimant introduced evidence of email correspondence, dated April 28, 2008, between Customer A and Claimant, that clearly showed Customer A was knowledgeable of the risky trading he had himself directed Claimant to make and that Customer A expected his father (Customer B) to cover any account losses resulting from this trading. This evidence completely repudiated the claims made by Customer A, which resulted in Occurrence Number [REDACTED], despite Customer A being given a small settlement from the Morgan Stanley Respondents after the complaint was made.

As to Occurrence Number [REDACTED]:

Claimant also introduced in evidence letters between Customer B and Respondent MS, dated January 12, 2009, that described the investigation Respondent MS had undertaken in response to Customer B's initial complaint. The emails described the long, and mostly profitable, history of the risky trading that Customer B had done through Respondent MS. After the written response from Respondent MS, Customer B took no further action regarding his complaint. This is significant evidence because

ARBITRATOR

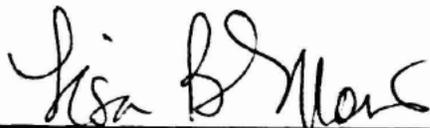
Lisa Bass Morris

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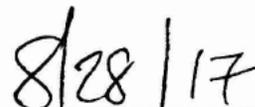
Sole Public Arbitrator

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



Lisa Bass Morris
Sole Public Arbitrator



Signature Date

August 29, 2017

Date of Service (For FINRA Office of Dispute Resolution office use only)