

AWARD

FINRA Office of DISPUTE RESOLUTION

CASE #: [REDACTED]

[REDACTED] (Claimant) vs. Morgan Peabody, Inc. (Respondent)

REPRESENTATION OF PARTIES:

For Claimant [REDACTED]: Owen Harnett, Esq., Advisor Law LLC, Broomfield, Colorado.

For Respondent Morgan Peabody, Inc.: David Williams, Morgan Peabody, Inc., Sherman Oaks, California.

NATURE OF DISPUTE: Associated Person vs. Member

Statement of Claim filed on or about: September 21, 2017.

CASE SUMMARY: Claimant asserted a claim seeking expungement of customer dispute occurrence number [REDACTED], a lawsuit filed by Mr. and Mrs. M ("Plaintiffs") in Los Angeles Superior Court ("Underlying Lawsuit") from his Central Registration Depository ("CRD") record.

RELIEF REQUESTED: In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Lawsuit from his CRD record pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous;
 2. Expungement of the Underlying Lawsuit from his CRD record pursuant to FINRA Rule 2080(b)(1)(B), as Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds;
 3. Expungement of the Underlying Lawsuit from his CRD record pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
 4. An award of damages in the amount of \$1.00; and
 5. Any and all other relief that the Arbitrator deems just and equitable.
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OTHER ISSUES: The Arbitrator acknowledges that he has read the pleadings and other materials filed by the parties.

Respondent did not file with FINRA Office of Dispute Resolution a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and is bound by the determination of the Arbitrator on all issues submitted.

On January 26, 2018, Claimant provided his letter (sent by certified mail) dated January 25, 2018 to Mrs. M, one of the Plaintiffs in the Underlying Lawsuit notifying her of the expungement hearing and serving her with a copy of the Statement of Claim. The Arbitrator determined that Mr. M, who is Mrs. M's husband and the other Plaintiff in the Underlying Lawsuit, was also served.

The Arbitrator conducted a recorded telephonic hearing on February 27, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement. Neither Respondent nor the Plaintiffs participated in the expungement hearing. The operator for the telephonic expungement hearing left a voicemail for Respondent's representative. He was not expected to appear as there was no opposition by Respondent. The Arbitrator determined that the Plaintiffs were provided notice of the hearing and did not attend.

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

The Arbitrator reviewed the Claimant's BrokerCheck® Report. The Arbitrator also reviewed the settlement documents in the Underlying Lawsuit, 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 of the Underlying Lawsuit was not conditioned on not opposing the request for expungement. The Arbitrator also noted that the Plaintiffs sought compensatory damages of \$1 million in the Underlying Lawsuit, and that Claimant's insurance carrier paid \$43,000 as the full settlement amount in order to avoid the costs of litigation. Finally, the arbitrator noted that there was no admission of liability and that the settlement was approved by the Los Angeles Superior Court.

The Arbitrator noted that Claimant 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: Claimant's testimony and court documents in the Underlying Lawsuit showing Claimant had no involvement in the real estate transaction at issue.

The parties present at the hearing have agreed that a handwritten, signed Award may be entered.

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

1. The Arbitrator recommends the expungement of all references to the above-captioned arbitration from the registration records of Claimant [REDACTED] [REDACTED] (CRD# [REDACTED]) maintained by the CRD, with the understanding that pursuant to Notice to Members 04-16, Claimant [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.

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

The occurrence is based on a failed real estate transaction, the subject of the Underlying Lawsuit by the Plaintiffs, the would-be customers, against Claimant here and two others, as defendants. Claimant met the Plaintiffs twice. They never became customers and were never interested in his options for investment. Instead they went ahead with a 1031 real estate exchange that Claimant was not involved in at all. Plaintiffs never gave him any funds to invest and never took any advice from him.

2. Any and all claims for relief not specifically addressed herein are denied.

OTHER FEES:

Filing Fees

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

Initial Claim Filing Fee = \$ 50.00

*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 is assessed the following:

Member Surcharge = \$ 150.00

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(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single arbitrator @ \$50.00/session = \$50.00
Pre-hearing conference: January 16, 2018 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$50.00
Hearing Date: February 27, 2018 1 session

Total Hearing Session Fees = \$100.00

The Arbitrator has assessed \$100.00 of the hearing session fees to Claimant.

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

ARBITRATOR

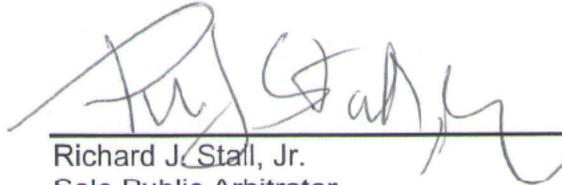
Richard J. Stall, Jr.

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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


Richard J. Stall, Jr.
Sole Public Arbitrator

Mar. 9, 2018
Signature Date

March 9, 2018
Date of Service (For FINRA-ODR office use only)