

**Award**  
**FINRA Office of Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimant

██████████

Case Number: ██████████

vs.

Respondents

Morgan Stanley  
Prudential Equity Group, LLC

Hearing Site: Philadelphia, Pennsylvania

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Nature of the Dispute: Associated Person vs. Members

**REPRESENTATION OF PARTIES**

For Claimant ██████████: Dochter Kennedy, Esq., AdvisorLaw, LLC,  
Broomfield, Colorado.

For Respondent Morgan Stanley: Andrew Gelfand, Esq., Morgan Stanley, New York,  
New York.

For Respondent Prudential Equity Group, LLC ("PEG"): Alan S. Brodheron, Esq., Law  
Offices of Alan S. Brodheron, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: November 16, 2017.

Claimant signed the Submission Agreement: November 16, 2017.

Statement of Answer filed by Morgan Stanley on or about: January 11, 2018.

Morgan Stanley signed the Submission Agreement: January 9, 2018.

Statement of Answer filed by PEG on or about: January 11, 2018.

PEG did not sign the Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: expungement of occurrence numbers  
██████████, ██████████ and ██████████ from his CRD records.

Morgan Stanley took no position concerning Claimant's expungement request.

PEG took no position concerning Claimant's expungement request.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of occurrence numbers [REDACTED], [REDACTED] and [REDACTED] from his CRD records, compensatory damages in the amount of \$1.00, and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer Morgan Stanley opposed any request for damages or other relief against Morgan Stanly as unsupported by the allegations and claims.

In the Statement of Answer PEG requested the Panel deny Claimant's request for compensatory damages and assess all forum fees against Claimant.

At the close of the hearing, Claimant withdrew his request for compensatory damages.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

PEG 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, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Arbitrator on all issues submitted.

The Arbitrator determined that two of the customers received a copy of the Statement of Claim and received due notice of the expungement hearing, and that the hearing would proceed without the customers present. The address of the third customer could not be found precluding sending a copy of the Statement of Claim.

The Arbitrator conducted a recorded telephonic hearing on July 9, 2018 so the parties could present oral argument and evidence on [REDACTED] request for expungement.

The customers did not participate in the expungement hearing and did not contest the request for expungement.

The Arbitrator reviewed the BrokerCheck® Report for [REDACTED] and the settlement documents for occurrence [REDACTED], considered the amount of payments made to the customer, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on the customer not opposing the request for expungement. The Arbitrator also noted that [REDACTED] did not contribute to the settlement amount.

The Arbitrator noted that [REDACTED] did not previously file a claim requesting expungement of the same disclosures in the CRD.

In recommending expungement the Arbitrator relied upon the following documentary or other evidence: the Statement of Claim with exhibits, Affidavit of Harris Freedman stating that neither PEG nor Claimant could locate the settlement documents for occurrence numbers [REDACTED], [REDACTED] and Claimant's testimony.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the 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 [REDACTED] from registration records maintained by the Central Registration Depository ("CRD"), for [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 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

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

The allegation that Claimant made unsuitable and excessive transactions is false and should be expunged. The customer was an aggressive investor whose investment objective was speculation. The customer authorized all transactions. There is no indication of unsuitability or excessive trading. The decrease in the value of the Customer's portfolio was due to an overall decline in the stock market.

2. The Arbitrator recommends the expungement of all references to occurrence number [REDACTED] from registration records maintained by the Central Registration Depository ("CRD"), for [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 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

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

The allegation that the customer's account declined due to poor investment advice and poor recommendations is false and should be expunged. The customer's investment objective was speculation. The customer authorized all transactions in the account and all recommendations were buy rated by Prudential. The decrease in the value of the customer's portfolio was due to an overall decline in the stock market.

3. The Arbitrator recommends the expungement of all references (with the exception of the information listed in the reason for expungement below) to occurrence number [REDACTED] from registration records maintained by the Central Registration Depository ("CRD"), for [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 13805 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 registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and the claim, allegation, or information is false.

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

The allegation that Claimant failed to follow the customer's liquidation instructions is to remain in the Claimant's CRD since there is not adequate information to determine the claim was false.

The allegation that Claimant made purchases without authorization is erroneous, factually impossible, and false and should be expunged. The customer's portfolio was a managed account in which Claimant was unable to make any trades. The trades made in the portfolio could not have been made by Claimant.



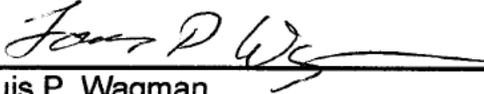
**ARBITRATOR**

Louis P. Wagman

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**



\_\_\_\_\_  
Louis P. Wagman  
Sole Public Arbitrator

7/26/18

\_\_\_\_\_  
Signature Date

July 27, 2018

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