

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

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In the Matter of the Arbitration Between:

Claimant

Case Number: [REDACTED]

vs.

Respondent

Morgan Stanley DW Inc.

Hearing Site: Newark, New Jersey

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

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

For Respondent Morgan Stanley DW Inc.: Joseph A. Sack, Esq., Morgan Stanley, New  
York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: April 6, 2018.

[REDACTED] signed the Submission Agreement: April 6, 2018.

Statement of Answer filed by Respondent on or about: May 29, 2018.

Morgan Stanley DW Inc. signed the Submission Agreement: May 29, 2018.

**CASE SUMMARY**

Claimant asserted the following cause of action: expungement.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested the following:

1. expungement of occurrence numbers [REDACTED], [REDACTED] and [REDACTED] from his CRD records pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegations, or information is factually impossible or clearly erroneous;
2. expungement of occurrence numbers [REDACTED], [REDACTED] and [REDACTED] from his CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegations, or information is false;
3. an award of damages in the amount of \$1.00; and
4. any and all relief that the Arbitrator deems just and equitable.

In its Statement of Answer, Respondent took no position with respect to Claimant's request for expungement; however, it denied that the occurrences were not required to be reported and denied that it is liable to Claimant for any damages.

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

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

Claimant provided FINRA Office of Dispute Resolution with proof that he notified the customer related to occurrence numbers [REDACTED], [REDACTED] and [REDACTED] of the expungement request and of their right to participate and testify at the expungement hearing and included a copy of the Statement of Claim with the notice.

The Arbitrator conducted a recorded telephonic expungement hearing on October 16, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

The Respondent participated in the expungement hearing, but did not contest the request for expungement.

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

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim, Respondent's Statement of Answer, Claimant's Investment Adviser Representative Public Disclosure Report and the evidence and testimony presented at the expungement hearing.

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

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the telephonic expungement hearing, the Arbitrator has decided 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 references to occurrence numbers [REDACTED], [REDACTED] and [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:

These occurrences occurred in 2002 and 2003. In each case, the investors' claims, after investigation by Morgan Stanley DW Inc., were denied and none of the investors pursued arbitration.

In addition, two of the customer complaints were filed in April of 2003 after Claimant left Morgan Stanley DW Inc. on July 22, 2002.

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

### **FEES**

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

#### **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.*

#### **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(s) giving rise to the dispute. Accordingly, as a party, Morgan Stanley DW Inc. is assessed the following:

Member Surcharge	= \$ 150.00
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#### **Discovery-Related Motion Fee**

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) arbitrator @ \$200.00/decision	= \$ 200.00
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Claimant submitted one (1) discovery-related motion

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Total Discovery-Related Motion Fees	= \$ 200.00
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The Panel has assessed \$200.00 of the discovery-related motion fees to Claimant.

**Hearing Session Fees and Assessments**

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, 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: July 13, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: October 16, 2018	1 session

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Total Hearing Session Fees	= \$ 100.00
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The Panel 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**

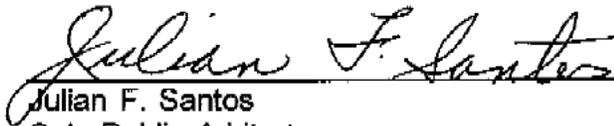
Julian F. Santos

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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**

  
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Julian F. Santos  
Sole Public Arbitrator

11/1/18  
\_\_\_\_\_  
Signature Date

November 2, 2018

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