

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

Morgan Stanley & Co., LLC

Hearing Site: Newark, New Jersey

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ Michael Bessette, AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent Morgan Stanley & Co., LLC: Chan H. Nam, Esq., Morgan Stanley, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: February 20, 2018.

████████████████████ signed the Submission Agreement: February 20, 2018.

Statement of Answer filed by Respondent on or about: June 27, 2018.

Morgan Stanley & Co., LLC did not sign the Submission Agreement.

CASE SUMMARY

Claimant asserted the following cause of action: expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

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

In the Statement of Answer, Respondent took no position on Claimant's expungement request and denied any allegation of wrongdoing.

Claimant withdrew his request for \$1.00 in compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

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, having answered the claim is bound by the determination of the Arbitrator on all issues submitted.

Claimant provided FINRA Office Dispute Resolution with proof that he notified the customer related to occurrence number [REDACTED] of the expungement request and of his 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 23, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

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

The Arbitrator noted that the settlement was related to a Global ARS Settlement. The Arbitrator did not review the Global ARS Settlement Agreement since it was unavailable. However, the Arbitrator reviewed the BrokerCheck® Report for [REDACTED]. The Arbitrator noted that [REDACTED] did not contribute to the settlement amount and that the settlement was not conditioned on the customer not opposing the request for expungement. The Arbitrator also noted that the customer was reimbursed by the firm pursuant to the Global ARS Settlement. The Arbitrator found Claimant's testimony credible, even in the absence of the Global ARS Settlement Agreement.

The Arbitrator noted that [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: Claimant's Statement of Claim, Respondent's Statement of Answer, Claimant's BrokerCheck® Report and the evidence and testimony presented at the expungement hearing.

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 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:

In or around 2002, the customer became a client of Claimant. The customer, a highly sophisticated private equity and alternative investment analyst, had substantial liquid net worth and a moderately aggressive, long-term investment profile. Based on this profile and his expressed interest in generating high current returns, the Claimant suggested investments in non-AMT triple AAA rated New York municipal auction rate securities ("MARS"). ARS were long-term securities with time-varying interest rates that rest periodically over very short intervals. Historically, because of their liquidity and high rating, they were frequently considered to be, and used as, cash equivalents in investment portfolios. Acting on Claimant's recommendations, the customer began to purchase MARS in or around 2006, increasingly on an unsolicited basis, until they accounted for approximately half of his portfolio.

Towards the end of 2007, the ARS market was showing signs of stress, and the Claimant recommended that the customer significantly reduce or eliminate his MARS exposure. The customer did not follow Claimant's recommendation, and when the ARS market began to fail in early 2008, the customer's MARS positions were rendered illiquid (although not worthless).

At the time, the customer owned \$3.625MM in New York State Energy Research & Development Authority Con Ed A-2 Variable Monthly and \$1.85MM in New York State Energy Research and Development Authority Series A-2 Con Ed ARNS W/35 paper, totaling \$5.475MM. Pursuant to the global ARS settlement orchestrated by the SEC, those positions were eventually purchased at par by the firm in 2009, thus making him whole on these investments. Claimant did not participate in, or contribute to, this settlement, for which there was no identifiable individual settlement agreement.

In his communication with Morgan Stanley, the customer alleged these purchases of MARS during the period of 2003-2008 had been represented by Claimant to be liquid investments. At the time, they were considered as such, and in any event, the customer never expressed a concern about liquidity until after the event.

Claimant's recommendations were suitable and appropriate for the customer and met the customer's preference for high yielding tax-advantaged investments, at the time they were made. The ARS market had performed as expected for many years prior to 2008 and, due to their high credit quality and frequency of action resets, provided liquidity as well.

Claimant testified that the occurrence has had an adverse impact on his marketing and business development efforts, citing that two prospective clients who referred to his CRD as a reason for not going ahead with a relationship. The interest of consumer protection and awareness being in no way negatively implicated, the Arbitrator recommends this occurrence be expunged from Claimant's CRD records.

2. 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 & Co., LLC is assessed the following:

Member Surcharge	= \$ 150.00
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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, 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: June 27, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: October 23, 2018	1 session

Total Hearing Session Fees	= \$ 100.00
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The Arbitrator has assessed the \$100.00 hearing session fees to Claimant.

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

ARBITRATOR

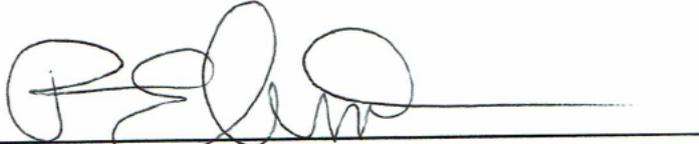
Robert E. Anderson

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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



Robert E. Anderson
Sole Public Arbitrator

11/15/18

Signature Date

November 16, 2018

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