

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

Morgan Stanley DW Inc.

Hearing Site: Columbia, South Carolina

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ (“Claimant”): Dochter Kennedy, MBA, JD and Christopher Cummins, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Morgan Stanley DW Inc. (“Respondent”): Kimberly J. Gustafson, Esq., Morgan Stanley, St. Petersburg, California.

CASE INFORMATION

Statement of Claim filed on or about: September 7, 2018.

Claimant signed the Submission Agreement: August 31, 2018.

Statement of Answer filed by Respondent on or about: November 12, 2018

Respondent signed the Submission Agreement: October 3, 2018.

CASE SUMMARY

Claimant asserted a claim seeking expungement of a termination disclosure from his Form U5 filed by Respondent on Claimant’s Central Registration Depository (“CRD”) records. Claimant alleged that the termination disclosure at issue is defamatory in nature.

In the Statement of Answer, Respondent advised that it took no position with respect to Claimant’s requests for expungement and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the Form U5 amendments, and those relevant portions of the Form U4, from Claimant’s CRD records on the basis that the statement is

defamatory in nature, misleading, inaccurate, and/or erroneous, to include an amendment of the Reason for Termination entry in Section 3 of Claimant's Form U5 to read "Voluntary;" subsequent expungement of the Reason for Termination explanation on Claimant's CRD; expungement of the answers to Questions 7F(1) and 7F(2) of Claimant's Form U5, amending those responses to "No;" and a deletion of any of the accompanying Internal Review and Termination Disclosure Reporting Pages in their entirety;

2. Damages in the amount of \$1.00; and
3. Any other relief as the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent opposed Claimant's request for \$1.00 in damages.

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

OTHER ISSUES CONSIDERED AND DECIDED

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

The Arbitrator conducted a recorded telephonic hearing on June 4, 2019 so the parties could present oral argument and evidence on Claimant's request for expungement.

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

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 expungement of the Reason for Termination and the Termination Explanation in Section 3 [REDACTED] (CRD # [REDACTED] Form U5, filed by Morgan Stanley DW Inc. (CRD # 7556) on April 1, 2004 and maintained by CRD. The Reason for Termination shall be changed to "Voluntary" and the Termination explanation section should appear blank.

In addition, the Arbitrator recommends that the "yes" answer to Question 14J(1) on the Form U4 Amendment filed by Strategic Financial Alliance, Inc. (CRD # [REDACTED] on April 2, 2004 be expunged and changed to "no" and the accompanying disclosure reporting page be deleted in its entirety.

The above recommendations are based on the defamatory nature of the information and shall apply to all subsequent disclosures regarding this event. The registration records are not automatically amended to include the changes indicated above. Claimant [REDACTED] must forward

a copy of this Award to FINRA's Registration and Disclosure Department for review.

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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge	= \$ 150.00
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Postponement Fees

Postponements granted during these proceedings for which fees were waived:

April 8-9, 2019, postponement by both parties	= WAIVED
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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(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 7, 2019	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$50.00
Hearing Date: June 4, 2019	1 session

Total Hearing Session Fees	= \$100.00
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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

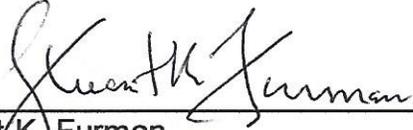
Stuart K. Furman

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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



Stuart K. Furman
Sole Public Arbitrator

7-29-19

Signature Date

July 29, 2019

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