

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
[REDACTED]

Case Number: [REDACTED]

vs.

Respondents
Morgan Stanley and Morgan Stanley DW Inc.

Hearing Site: Pittsburgh, Pennsylvania

Nature of the Dispute: Associated Person vs. Members

REPRESENTATION OF PARTIES

For Claimant [REDACTED] ("Claimant"): Harris Freedman, Esq. and Dochtor Kennedy, Esq., AdvisorLaw LLC, Westminster, Colorado.

For Respondent Morgan Stanley a/k/a Morgan Stanley Smith Barney, LLC ("Morgan Stanley"): Consuelo Mejer, Esq. and Abigail D. Elrod, Esq., Morgan Stanley Wealth Management, New York, New York.

Respondent Morgan Stanley DW Inc. ("MSDW") did not appear.

CASE INFORMATION

Statement of Claim filed on or about: December 24, 2018.

Amended Statement of Claim on or about: January 18, 2019.

Claimant signed the Submission Agreement: December 21, 2018 and January 18, 2019.

Statement of Answer to Amended Statement of Claim filed by Morgan Stanley on or about: February 19, 2019.

Morgan Stanley signed the Submission Agreement: February 19, 2019.

MSDW did not sign file a Statement of Answer or sign a Submission Agreement.

CASE SUMMARY

In the Statement of Claim and Amended Statement of Claim, Claimant asserted a claim seeking expungement of customer dispute information from his registration records maintained by the Central Registration Depository ("CRD").

In the Statement of Answer to Amended Statement of Claim, Morgan Stanley denied any wrongdoing in connection with fulfilling its regulatory duties and did not oppose Claimant's request for expungement.

RELIEF REQUESTED

In the Statement of Claim and Amended Statement of Claim, Claimant requested expungement of Occurrence Numbers [REDACTED] [REDACTED] and [REDACTED] from his CRD registration records, an award of 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 to Amended Statement of Claim, Morgan Stanley objected to Claimant's request for \$1.00 in compensatory damages.

At the hearing, 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.

MSDW 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 or about January 18, 2019, Claimant submitted an Amended Statement of Claim, naming Morgan Stanley as an additional respondent.

On or about July 1, 2019, Claimant filed copies of letters sent to the customers related to Occurrence Numbers [REDACTED] [REDACTED] and [REDACTED] (collectively, the "Customers"), providing the Customers with the expungement hearing date and time, notice of the opportunity to participate in the expungement hearing, and enclosing a copy of the Amended Statement of Claim.

On or about July 15, 2019, Claimant filed an Affidavit of Service with respect to the Customers.

The Arbitrator conducted a recorded, telephonic hearing on August 1, 2019, so the parties could present oral argument and evidence on Claimant's request for expungement.

Morgan Stanley participated in the expungement hearing, but did not contest the request for expungement. MSDW did not participate in the expungement hearing. None of the Customers participated in the expungement hearing.

The Arbitrator reviewed the BrokerCheck® Report for Claimant.

The Arbitrator noted that Occurrence Number [REDACTED] did not result in a settlement, therefore, the Arbitrator did not review any settlement documents related to that occurrence.

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

In recommending expungement of Occurrence Number [REDACTED] the Arbitrator relied upon the following documentary or other evidence: Morgan Stanley's letter in response to the customer's complaint for Occurrence Number [REDACTED] the Client Profile for the customer, and Claimant's testimony.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submission, 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 CRD for Claimant [REDACTED] (CRD# [REDACTED] 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 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 claim of unsuitability is clearly erroneous and false. The investment aligned with the stated objectives and investment history of the customer, an experienced investor, who was explicitly pursuing growth.

2. Claimant's request for expungement of Occurrence Numbers [REDACTED] and [REDACTED] from his CRD records is denied.
3. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, 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

**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 firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as parties, Morgan Stanley and MSDW are each 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, 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 @ \$50.00/session = \$ 50.00
Pre-hearing conference: May 8, 2019 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing Date: August 1, 2019 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 W. Dissen

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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 W. Dissen

08/15/2019

Richard W. Dissen
Sole Public Arbitrator

Signature Date

August 15, 2019

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