

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Keith Lawrence Galanti

Case Number: 20-01689

vs.

Respondents
Morgan Stanley & Co. Inc.
Morgan Stanley DW, Inc.

Hearing Site: New York, New York

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Associated Person vs. Members.

This case was administered under the Special Proceeding option for simplified cases.

REPRESENTATION OF PARTIES

For Claimant Keith Lawrence Galanti: Harry Meyer, Arbitration Evaluation Services, Far Rockaway, New York.

For Respondents Morgan Stanley & Co., Inc., and Morgan Stanley DW, Inc.: Jeremy S. Winer, Esq., Morgan Stanley Smith Barney LLC, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: May 29, 2020.

Keith Lawrence Galanti signed the Submission Agreement: May 27, 2020.

Statement of Answer filed by Respondents Morgan Stanley & Co., Inc. and Morgan Stanley DW, Inc. on or about: July 22, 2020.

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

Morgan Stanley DW, Inc. signed the Submission Agreement: July 22, 2020.

CASE SUMMARY

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

In the Statement of Answer, Respondents did not oppose Claimant’s request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1401065 and 1025156; 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, Respondents opposed Claimant's request for \$1.00 in compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent Morgan Stanley & Co. Inc. did not file 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 and appeared at the hearing, is bound by the determination of the Panel on all issues submitted.

On September 30, 2020, Claimant advised that the customers in Occurrence Number 1401065 were served with the Statement of Claim and notice of the date and time of the expungement hearing. Claimant further advised that the customer in Occurrence Number 1025156 is deceased.

The Arbitrator conducted a recorded telephonic hearing on December 16, 2020 so the parties could present oral argument and evidence on Claimant's request for expungement.

Jon-Jorge Aras, Esq. and Christopher Warren, Esq. of Warren Law Group, Far Rockaway, New York, appeared as counsel for Claimant at the expungement hearing. On January 13, 2021, Jon-Jorge Aras, Esq. and Christopher Warren, Esq. filed a notice of withdrawal as counsel for Claimant.

Respondents participated in the expungement hearing and did not oppose the request for expungement.

The customers in Occurrence Number 1401065 did not participate in the expungement hearing. Based upon Claimant's testimony at the expungement hearing, the Arbitrator found that the customers in Occurrence Number 1401065 had notice of the expungement request and hearing.

By Order dated January 22, 2021, the Arbitrator ordered Claimant provide additional information regarding Claimant's efforts to locate and serve the customer in Occurrence Number 1025156. On March 29, 2021, Claimant filed a letter advising that Claimant had ascertained the customer's last known address, transmitted to said address a letter, via Certified Mail, and that the letter apprised the customer of the Arbitrator's directives, and of her right to appear and be heard in this matter. The Arbitrator found that Claimant has acted in good faith in attempting to contact the customer in Occurrence Number 1025156. The Arbitrator noted that the Claimant has heard nothing from the customer, or anyone purporting to represent her interests. As such, the Arbitrator noted the he is satisfied that due process has been served, and all relevant FINRA Rules complied with.

The Arbitrator reviewed Claimant's BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrences in the CRD.

The Arbitrator did not review the settlement documents in Occurrence Numbers 1401065 and 1025156. By Affidavit dated February 9, 2021, Claimant advised that due to the age of the complaints, the settlement documents were not available. The Arbitrator considered the settlement amounts and noted that the dates of the settlements preceded the effective date of the rule against conditioned settlements. Based on Claimant's testimony, the Arbitrator also noted that Claimant did not contribute to the settlement amounts.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings, Claimant's BrokerCheck® Report; and Claimant's testimony.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and any post-hearing submissions, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claim for \$1.00 in compensatory damages is denied.
2. The Arbitrator recommends the expungement of all references to Occurrence Number 1401065 from registration records maintained by the CRD for Claimant Keith Lawrence Galanti (CRD Number 1308128) with the understanding that, pursuant to Notice to Members 04-16, Claimant Keith Lawrence Galanti 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 of Arbitration Procedure ("Code"), the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

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

The customers' claim centered upon the ownership of certain Auction Rate Securities ("ARS"). As is well known, the financial crisis of 2008 had a devastating effect upon the ARS market. The Claimant cannot be held responsible for a tectonic shift in an entire market. Furthermore, credible testimony was given that the customers were made whole by the Respondents in a global settlement applicable to all those similarly situated. Finally, testimony was given that one of the customers was a sophisticated investor with both employment in the securities industry and extensive investing experience and continues to maintain an account with the Claimant through the Respondent broker-dealer.

3. The Arbitrator recommends the expungement of all references to Occurrence Number 1025156 from registration records maintained by the CRD for Claimant Keith Lawrence Galanti (CRD Number 1308128) with the understanding that, pursuant to Notice to Members 04-16, Claimant Keith Lawrence Galanti 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 of Arbitration Procedure (“Code”), the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

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

Claimant testified credibly that the customer already had a quite large position in the underlying stock (the now defunct Lucent Technologies), that all proper steps were taken, and documentation executed to enable the customer to purchase additional Lucent shares on margin. Significantly, the Claimant testified credibly that he made every attempt to persuade the customer to protect the downside by entering a stop-loss order, and the customer adamantly refused. The customer complaint was filed in 2001 and coincided with the turmoil in the market for technology stocks, commonly referred to as the “dot com crash.” As is well known, Lucent shares were among those impacted by this market downturn. The Claimant cannot be at fault for market changes well beyond his control.

4. 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 Dispute Resolution Services 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 firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as parties, Respondents Morgan Stanley & Co. Inc., and Morgan Stanley DW, Inc. are each 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, including a pre-hearing conference with the Arbitrator, which 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: September 9, 2020	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing Date: December 16, 2020	1 session	

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

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

ARBITRATOR

Anthony Michael Sabino

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Arbitrator's Signature

Anthony Michael Sabino

Anthony Michael Sabino
Sole Public Arbitrator

04/09/2021

Signature Date

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

April 12, 2021

Date of Service (For FINRA Dispute Resolution Services use only)