

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Brian L. Kasal

Case Number: 20-01712

vs.

Respondents
Morgan Stanley and
William Blair & Company LLC

Hearing Site: Chicago, Illinois

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

REPRESENTATION OF PARTIES

For Claimant Brian L. Kasal (“Claimant”): Joshua B. Kons, Esq., Law Offices of Joshua B. Kons, LLC, Hartford, Connecticut.

For Respondent Morgan Stanley (“Morgan Stanley”): Andrew E. Gelfand, Esq., Morgan Stanley Wealth Management, New York, New York.

For Respondent William Blair & Company LLC (“William Blair”): Christopher D. Seps, Esq., Ulmer & Berne LLP, Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: June 1, 2020.
Claimant signed the Submission Agreement: June 1, 2020.

Statement of Answer filed by Morgan Stanley on or about: July 22, 2020.
Morgan Stanley signed the Submission Agreement: July 22, 2020.

Statement of Answer filed by William Blair on or about: August 10, 2020.
William Blair signed the Submission Agreement: August 10, 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, Morgan Stanley did not oppose Claimant's expungement request.

In the Statement of Answer, William Blair denied any wrongdoing but otherwise took no position concerning the allegations in the Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 8684, 1531696, and 1617133 and compensatory damages in the amount of \$1.00.

In the Statement of Answer, Morgan Stanley opposed any request for damages or any other relief against it.

In the Statement of Answer, William Blair opposed any request for damages or other relief against it and requested that all hearing fees and costs associated with this arbitration be assessed against Claimant.

At the hearing, Claimant requested that his request for \$1.00 in compensatory damages be denied.

OTHER ISSUES CONSIDERED AND DECIDED

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

On December 10, 2020, one of the customers in Occurrence Number 1531696 sent an email to FINRA stating that he opposed Claimant's request for expungement.

On December 18, 2020, Claimant advised that the customers in Occurrence Numbers 1531696 and 1617133 ("Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing. Claimant also filed an obituary for the customer in Occurrence Number 8684.

On December 19, 2020, the other customer in Occurrence Number 1531696 sent an email to FINRA stating that she opposed Claimant's request for expungement.

On January 5, 2020, the customer in Occurrence Number 1617133 sent an email to FINRA stating that she opposed Claimant's request for expungement.

The Arbitrator conducted a recorded, telephonic hearing on January 7, 2020, so the parties could present oral argument and evidence on Claimant's request for expungement.

Morgan Stanley participated in the expungement hearing and, as stated in the Statement of Answer, did not oppose the request for expungement.

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

None of the Customers participated in the expungement hearing. The Arbitrator found that the Customers had notice of the expungement request and hearing.

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 also reviewed the settlement documents for Occurrence Numbers 1531696 and 1617133, considered the amount of payments made to any party to the settlements, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on any party to the settlements not opposing the expungement request. The Arbitrator also noted that Claimant did not contribute to the settlement amount for Occurrence Number 1617133 but did contribute to the settlement amount for Occurrence Number 1531696.

The Arbitrator was unable to review the settlement document related to Occurrence Number 8684. Claimant testified that he attempted to obtain a copy of the settlement document, but was unable to do so. Based on Claimant's testimony and representations, the Arbitrator considered the amount of payments made to any party and determined that Claimant did not contribute to the settlement.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the settlement agreements, Claimant's testimony, and the statements submitted by the Customers.

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. The Arbitrator recommends the expungement of all references to Occurrence Numbers 8684 and 1617133 from registration records maintained by the CRD for Claimant Brian Lance Kasal (CRD Number 1228369) with the understanding that, pursuant to Notice to Members 04-16, Claimant Brian Lance Kasal 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 false.

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

Occurrence Number 8684

The customer was a very sophisticated investor with a very aggressive approach to investing. The dispute was primarily with Lehman Brothers, not Claimant. Complaints

were filed against six or seven other brokerages, simultaneously, in an effort to recoup the customer's losses, not because of bad advice given by Claimant. Also, the complaint was not initiated by the customer, but by his nephew.

The customer's allegations were false. The investments recommended by Claimant were blue chip and wholly satisfactory and suitable, resulting in a balanced portfolio. Many of the investments were based on the customer's own ideas. The customer never complained to Claimant. They simply never spoke again after the account was transferred. Furthermore, Claimant's compensation was not based on trades but on a percent of the portfolio managed.

Occurrence Number 1617133

The customer made no complaint about Claimant until she heard about a complaint made by her neighbor (who was also Claimant's customer), which resulted in a recovery. The customer's investments were all suitable. Claimant created a balanced portfolio for the customer that protected her from the severity of a market crash, although she had some losses in the market crash.

The customer's allegations were false. The losses sustained by the customer were not the fault of Claimant. Her losses were as a result of the market. If anything, her portfolio protected her and limited her losses. Furthermore, the account fees were based on a percentage of the portfolio.

2. Claimant's request for expungement of Occurrence Number 1531696 from his registration records maintained by the CRD is denied.
3. Claimant's claim for \$1.00 in compensatory damages is 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 persons at the time of the events giving rise to the dispute. Accordingly, as parties, Morgan Stanley and William Blair are each assessed the following:

Member Surcharge Fee	= \$	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 @ \$50.00/session		= \$	50.00
Pre-Hearing Conference: October 9, 2020	1 session		
One (1) hearing session on expungement request @ \$50.00/session		= \$	50.00
Hearing Date: January 7, 2021	1 session		
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Total Hearing Session Fees		= \$	100.00

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

Michael S. Matek

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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

Michael S. Matek

Michael S. Matek
Sole Public Arbitrator

01/14/2021

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.

January 14, 2021

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