

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Andrew D. Urbanski

Case Number: 20-02043

vs.

Respondent
Morgan Stanley & Co. LLC

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. Member

REPRESENTATION OF PARTIES

For Claimant Andrew D. Urbanski: Michael O’Gara, J.D. and Dochter Kennedy, MBA, J.D., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Morgan Stanley & Co. LLC: Joseph A. Sack, Esq., Morgan Stanley, New York, New York.

CASE INFORMATION

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

Andrew D. Urbanski signed the Submission Agreement: June 29, 2020.

Statement of Answer filed by Respondent on or about: August 18, 2020.

Morgan Stanley & Co. LLC signed the Submission Agreement: August 18, 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, Respondent took no position on Claimant’s request for expungement and denied certain allegations made in the Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 1431782; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deemed just and equitable.

In the Statement of Answer, Respondent requested denial that Respondent is liable to Claimant for any damages whatsoever.

At the beginning of the hearing, Claimant withdrew the request for \$1.00 in damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about December 17, 2020, Claimant advised that the customer in Occurrence Number 1431782 ("Customer") was served with a copy of the Statement of Claim, notice of the date and time of the expungement hearing and of his right to participate therein. On or about December 22, 2020, Claimant filed with FINRA Dispute Resolution Services an Affidavit of Service, along with proof of service via FedEx upon the underlying Customer, advising that the Customer was served with a copy of the Statement of Claim and notice of the date and time of the expungement hearing. On or about January 29, 2021, Claimant filed with FINRA Dispute Resolution Services an Affidavit signed by the Customer on June 26, 2020, advising that the Customer supports Claimant's request for expungement.

The Arbitrator conducted a recorded, telephonic hearing on February 25, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, took no position on Claimant's request for expungement.

The Customer did not participate in the expungement hearing. The Arbitrator found that the Customer 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 occurrence in the CRD.

The Arbitrator noted that the dispute related to Occurrence Number 1431782 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony; Customer's Affidavit; and Claimant's Submission of Expungement Hearing Exhibits.

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 Number 1431782 from registration records maintained by the CRD for Claimant Andrew D. Urbanski (CRD Number 5316404) with the understanding that, pursuant to Notice to Members 04-16,

Claimant Andrew D. Urbanski 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:

The Customer purchased Auction Rate Securities (“ARS”) after Claimant advised the Customer of the risks, and after the Customer devised a strategy to “capture default yields” over time. The Customer submitted an Affidavit, in lieu of testifying, after he received notification of Claimant’s request for expungement, wherein the Customer stated that he supports Claimant’s request for expungement. The Customer did not file for arbitration, and no settlement was paid to the Customer. The Customer has remained a client of the Claimant up until today. For the reasons stated above, it is clear that the allegation contained in Claimant’s CRD and BrokerCheck® Report that the Customer alleges that he was not informed of the risks of the illiquidity situation affecting the ARS market when he purchased ARS on February 19, 2008, is false. Claimant met his burden for expungement under FINRA Rule 2080(b)(1)(C).

2. 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 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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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: October 27, 2020	1 session	
One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: February 25, 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

William G. Binckes

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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

William G. Binckes

William G. Binckes
Sole Public Arbitrator

03/02/2021

Signature Date

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March 02, 2021

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