

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Jason Erik Stephens

Case Number: 20-02147

vs.

Respondent
Morgan Stanley

Hearing Site: Boca Raton, Florida

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 Jason Erik Stephens: Harris Freedman, Esq., HLBS Law, Westminster, Colorado.

For Respondent Morgan Stanley: Kimberly J. Gustafson, Esq., Morgan Stanley, St. Petersburg, Florida.

CASE INFORMATION

Statement of Claim filed on or about: July 7, 2020.

Jason Erik Stephens signed the Submission Agreement: July 7, 2020.

Statement of Answer filed by Respondent Morgan Stanley DW Inc. on or about: August 26, 2020.

Morgan Stanley DW Inc. signed the Submission Agreement: July 9, 2020.

Amended Statement of Claim filed on or about: August 31, 2020.

Jason Erik Stephens signed the Submission Agreement: August 31, 2020.

Statement of Answer to the Amended Statement of Claim filed by Respondent Morgan Stanley on or about: September 21, 2020.

Morgan Stanley signed the Submission Agreement: January 26, 2021.

CASE SUMMARY

In the Statement of Claim, as amended, 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 to the Amended Statement of Claim, Respondent denied any material allegations of wrongdoing made in the Statement of Claim and denied any liability for damages in any amount, under any theory.

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimant requested: expungement of Occurrence Number 1273610; the deletion of all Disclosure Reporting Pages referring to Occurrence Number 1273610; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer to the Amended Statement of Claim, Respondent requested that Claimant's request for compensatory damages in the amount of \$1.00 be denied; and that any and all forum fees for this matter, which solely concerns expungement, be assessed against Claimant.

At the close 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 August 31, 2020, Claimant filed with FINRA Dispute Resolution Services an Amended Statement of Claim to name Respondent Morgan Stanley instead of Respondent Morgan Stanley DW Inc. (an entity that no longer exists). Therefore, the Arbitrator made no determination with respect to Respondent Morgan Stanley DW Inc.

On December 14, 2020, Claimant provided proof of service that the customers in Occurrence Number 1273610 ("Customers") were served with a copy of the Statement of Claim, as well as notice of the date and time of the expungement hearing and of their right to participate therein. On December 22, 2020, Claimant filed an Affidavit signed by Claimant's counsel advising that the Customers were served with the Statement of Claim and Notice of Expungement.

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

Respondent participated in the expungement hearing.

The Customers did not participate 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 occurrence in the CRD.

The Arbitrator noted that Occurrence Number 1273610 related to a written complaint which Respondent denied and which was not settled, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony; Claimant's Exhibits 1-3; and Claimant's BrokerCheck® report.

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 1273610 from registration records maintained by the CRD for Claimant Jason Erik Stephens (CRD Number 3053046) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jason Erik Stephens 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 findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and

The claim, allegation, or information is false.

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

Claimant testified under oath to the following: he has been in the securities industry since 1998 and is currently a financial advisor with UBS Financial Services. Between 1998 and April 2007, Claimant was registered with Respondent Morgan Stanley.

The Customers are well educated, experienced and sophisticated customers. The Customers became Claimant's clients after attending a seminar Claimant hosted. Claimant testified he had several conversations and meetings, as well as the personal and financial information forms from Respondent Morgan Stanley to review and know the Customers investment objectives. Claimant's practice is to sit with his clients and go over their goals and objectives. The information is then put into software and the information is reviewed with the Customers. The Customers' investment objectives were "growth" and "income," and their risk tolerance was "moderate-to-moderate aggressive." They wanted a diversified portfolio and received monthly statements. Also, quarterly performance reports were provided to the Customers. They had several accounts with Claimant. These were discretionary accounts – money managed accounts and could buy and sell "at will" based on their goals and objectives. There was a money manager; Claimant did not just go into the account and make trades. The investments were diversified - large cap blue chip, small mid cap and fixed income. It was suitable for the Customers based on their goals and objective. They never complained to Claimant at any time.

In the complaint letter to Respondent Morgan Stanley, the Customers claim Claimant did not follow their instructions and that is false according to the testimony of Claimant. They had a misunderstanding they had lost \$50,000.00 and so they sent an email to Respondent Morgan Stanley. Claimant testified that it was shown, and explained, to the Customers that they had made a profit. Claimant spoke with the Customers at end of the year and explained everything. The Customers were apologetic.

Also contained in the Customers' complaint letter (Exhibit 1) was an allegation that they had no hedge funds and Claimant never recommended any hedge funds. They were mistaken and the allegation is false. They also claim that Claimant was unwilling to follow their instructions. Claimant completely denies the allegations made in the Customers' complaint letter. Respondent Morgan Stanley investigated and responded to the Customers' letter, denied any wrongdoing and advised that the portfolio was not down \$50,000.00, but rather their "portfolio overall was profitable" prior to their transfer of their accounts (Exhibits 2). Claimant's uncontroverted testimony was that the allegations are false and erroneous. The Customers did not pursue their claim in arbitration or court, but it was reported on Claimant's CRD and BrokerCheck® report.

Neither Customer participated in the expungement hearing. The proof of delivery of the notice of the expungement and hearing was delivered on December 16, 2020 and admitted into evidence (Exhibit 3). In conclusion the Arbitrator agrees that the burden has been met based on the testimony of Claimant and the Exhibits 1-3, the BrokerCheck® report, and that expungement as to Occurrence Number 1273610 is granted based on FINRA Rule 2080(b)(1)(A) (factually impossible or erroneous) and (b)(1)(C) (false).

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 Morgan Stanley 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: November 13, 2020	1 session	
One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing Date: January 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

Kimberly A. Gilmour

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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

Kimberly A. Gilmour

Kimberly A. Gilmour
Sole Public Arbitrator

01/29/2021

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 29, 2021

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