

**Award**  
**FINRA Dispute Resolution Services**

---

In the Matter of the Arbitration Between:

Claimant

Colin Harrington Williams

Case Number: 20-02231

vs.

Respondent

Morgan Stanley

Hearing Site: Portland, Oregon

---

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 Colin Harrington Williams (“Claimant”): Michael O’Gara, Esq. and Docthor Kennedy, MBA, J.D., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Morgan Stanley (“Respondent”): Jeffrey P. Palmer, Esq., Greenberg Traurig, LLP, East Palo Alto, California.

**CASE INFORMATION**

Statement of Claim filed on or about: July 15, 2020.

Claimant signed the Submission Agreement: July 15, 2020.

Statement of Answer filed by Respondent on or about: September 22, 2020.

Respondent signed the Submission Agreement: September 17, 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 did not oppose Claimant’s expungement request and asserted various affirmative defenses, including the claim’s ineligibility for expungement under FINRA Rule 13206.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1572128 from his CRD records pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation or information is factually impossible or clearly erroneous;
2. Expungement of Occurrence Number 1572128 from his CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation or information is false;
3. Deletion of all Disclosure Reporting Pages associated with Occurrence Number 1572128 in their entirety;
4. Compensatory damages in the amount of \$1.00 from Respondent; and
5. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested:

1. Denial of Claimant's request for an award of damages from Respondent in its entirety;
2. An award providing that Claimant takes nothing from Respondent by reason of the Statement of Claim; and
3. Any relief the Panel may deem appropriate.

At 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.

The Arbitrator conducted a recorded, telephonic hearing on March 9, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

The Arbitrator has provided an explanation of the decision in this award. The explanation is for the information of the parties only and is not precedential in nature.

### **EXPLAINED DECISION**

Having carefully reviewed the evidence and heard the argument of the parties, and bearing in mind the FINRA policies that bear on the issue of expungement of CRD records, the Arbitrator concludes that Claimant's request for expungement must be denied.

FINRA Rule 13206 provides that "[n]o claim shall be eligible for submission to arbitration under the Code where six years have elapsed from the occurrence or event giving rise to the claim." The rule further provides that "[t]he panel will resolve any questions regarding the eligibility of a claim under this rule."

Here, the Customer complaint referenced in Claimant's CRD records, Occurrence Number 1572128, was received in March 2012. Claimant testified that he was almost immediately aware of the complaint but took no action beyond filing a response denying the complaint, which appears on his CRD records. The Statement of Claim seeking expungement was not filed with FINRA until July 2020, more than eight years later.

Although Claimant testified that he received incorrect advice from other employees and/or attorneys of Respondent about how long the occurrence would remain on his CRD records, he was unable to recall specifics of those conversations. In any case, incorrect advice from co-workers or his employer's attorneys would not excuse Claimant's delay in seeking expungement. There would need to be some equitable basis for tolling the statute such as fraud or concealment of the adverse CRD records by the Customer or others. No such evidence was presented here.

By the time the Statement of Claim was filed, one of the Customers, the husband, had been dead for five years. FINRA instructs Arbitrators to review settlement agreements, among other things, to determine whether the agreement was conditioned on the Customer agreeing not to oppose a request for expungement. Here, Respondent was unable to locate the settlement agreement with the Customer, nor could Claimant produce it. Although Claimant testified that he kept notes of his conversations with the Customers, he was unable to produce those as they were no longer in the system maintained by Respondent. When a party such as Claimant has a legal claim for expungement, he may not sleep on his rights as witnesses die or disappear and documentary evidence is lost over time.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the 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 (CRD Number 4857859) request for expungement of Occurrence Number 1572128 from his registration records maintained by the CRD is denied as he waited longer than the six-year period of limitations set out in FINRA Rue 13206 to bring his claim to arbitration, and his claim for expungement is accordingly not "eligible for submission to arbitration."
2. Any and all claims for relief not specifically addressed herein are denied.

### **FEES**

Pursuant to the Code of Arbitration Procedure ("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
--------------------------	------	-------

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent is 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, 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 3, 2020	1 session	
One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: March 9, 2021	1 session	
<hr/>		
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**

Kenneth James Pedersen

-

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**

***Kenneth James Pedersen***

\_\_\_\_\_  
Kenneth James Pedersen  
Sole Public Arbitrator

**03/17/2021**

\_\_\_\_\_  
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.

March 17, 2021

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