

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Kamesh Nagarajan

Case Number: 20-02363

vs.

Respondent
Morgan Stanley

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 Kamesh Nagarajan: Daniel D'Costa, Esq., D'Costa Law P.C., Hicksville, New York.

For Respondent Morgan Stanley: Abigail D. Elrod, Esq., Morgan Stanley Wealth Management, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: July 26, 2020.

Kamesh Nagarajan signed the Submission Agreement: July 8, 2020.

Statement of Answer filed by Respondent on or about: September 16, 2020.

Morgan Stanley signed the Submission Agreement: September 16, 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.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 1526137; 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, Respondent objected to any award of damages.

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 January 8, 2021, Claimant advised that the customer in Occurrence Number 1526137 was served with the Statement of Claim and with notice of the date and time of the expungement hearing.

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 and did not oppose the 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 1526137 was not settled and, therefore, there were no settlement documents to review.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, 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 1526137 from registration records maintained by the CRD for Claimant Kamesh Nagarajan (CRD Number 2993676) with the understanding that, pursuant to Notice to Members 04-16, Claimant Kamesh Nagarajan 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 registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

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

The customer’s complaint involved funds placed in Auction Rate Securities (“ARS”) accounts. The transaction at issue took place July 2008, during 2009, the ARS market suffered widespread auction failures and liquidity. This illiquidity failure affected customers across the finance industry, and pursuant to a policy determination by FINRA Regulatory Notice 09-12, securities firms were required to redeem customers’ funds at par. Claimant was not personally involved in this determination. The evidence established that Claimant made securities recommendations suitable for the customer’s requirements. Similar widespread auction failures happened with respect to the customer complaint filed by the customer August 4, 2010 and Claimant was not personally involved with said failures. Holding Claimant responsible for market failures outside of his control would be unjust.

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

**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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent Morgan Stanley 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 11, 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

William E. Nuckel

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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 E. Nuckel

William E. Nuckel
Sole Public Arbitrator

02/03/2021

Signature Date

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February 03, 2021

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