

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Christopher J. Cowans

Case Number: 20-02497

vs.

Respondents
Morgan Stanley Smith Barney, LLC
Morgan Stanley & Co., LLC
Morgan Stanley DW, Inc.

Hearing Site: Boston, Massachusetts

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 Christopher J. Cowans: Seth I. Rubinson, Esq., Rubinson Law, Houston, Texas.

For Respondents Morgan Stanley Smith Barney, LLC, Morgan Stanley & Co., LLC, and Morgan Stanley DW, Inc.: Jeremy S. Winer, Esq., Morgan Stanley Smith Barney, LLC, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: August 4, 2020.

Christopher J. Cowans signed the Submission Agreement: July 30, 2020.

Statement of Answer filed by Respondents on or about: August 17, 2020.

Morgan Stanley Smith Barney, LLC did not sign the Submission Agreement.

Morgan Stanley & Co., LLC signed the Submission Agreement: August 13, 2020.

Morgan Stanley DW, Inc. did not sign the Submission Agreement.

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, Respondents did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1081869, 1398652, 1474220, and 1685221 from his CRD records pursuant to FINRA Rules 2080(b)(1)(A), (B), and (C); compensatory damages in the amount of \$1.00 from Respondents; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondents objected to any award of damages against Respondents for submitting the required regulatory filings on Claimant's CRD and denied any wrongdoing in connection with fulfilling their regulatory duties.

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.

Respondents Morgan Stanley Smith Barney, LLC and Morgan Stanley DW, Inc. did not file properly executed Submission Agreements but are required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and, having answered the claim, are bound by the determination of the Arbitrator on all issues submitted.

On July 6, 2021, Claimant filed notice that the customers in Occurrence Numbers 1081869 ("Customer A") and 1398652 ("Customer B") are deceased and provided obituaries as proof thereof.

On November 4, 2021, Claimant advised that the customers in Occurrence Numbers 1474220 ("Customers C") and 1685221 ("Customer D"), as well as the last known addresses for Customer A and Customer B, hereinafter all referred to collectively as the "Customers," were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on December 14, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

During the expungement hearing, Claimant withdrew his request for expungement of Occurrence Number 1474220 without prejudice. Therefore, the Arbitrator made no determination with respect to Occurrence Number 1474220.

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

The Customers did not participate in the expungement hearing. The Arbitrator found that the Customers had notice of the expungement request and hearing.

On December 15, 2021, the Arbitrator entered a post-hearing Order directing Claimant to make a second attempt to notify Customer D of this expungement request and of his right to participate and directing Claimant to attempt to obtain copies of the settlement documentation for the matters at issue. On December 17, 2021, Claimant filed notice that a second service attempt was sent to Customer D. On January 7, 2022, Claimant filed the settlement documentation corresponding to

Occurrence Number 1398652 and provided notice that settlement documentation for the other matters could not be located.

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 documentation related to Occurrence Number 1398652, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request and that Claimant did not contribute to the settlement amount.

The Arbitrator did not review the settlement documentation related to Occurrence Number 1081869. The Arbitrator noted, based on Claimant's testimony, that the settlement was not conditioned on any party to the settlement not opposing the expungement request and that Claimant did not contribute to the settlement amount.

The Arbitrator noted that the dispute related to Occurrence Number 1685221 was not settled and, therefore, there was no settlement document to review.

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. Claimant Christopher J. Cowans' (CRD Number 1684420) request for expungement of Occurrence Numbers 1081869, 1398652, and 1685221 from registration records maintained by the CRD is denied.
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 firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, ss parties, Respondents are each assessed the following:

Member Surcharge = \$ 150.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

March 2, 2021, postponement requested by Claimant = \$ 50.00
May 6, 2021, postponement requested by Claimant = \$ 50.00
September 24, 2021, postponement requested by Claimant = \$ 50.00

Total Postponement Fees = \$ 150.00

The Arbitrator has assessed the total postponement fees to Claimant.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within three business days before the start of a scheduled hearing session:

March 2, 2021, cancellation requested by Claimant = \$ 600.00
May 6, 2021, cancellation requested by Claimant = \$ 600.00

Total Last-Minute Cancellation Fees = \$ 1,200.00

The Arbitrator has assessed the total last-minute cancellation fees to Claimant.

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:

Two (2) pre-hearing sessions with a single Arbitrator @ \$50.00/session = \$ 100.00
Pre-Hearing Conferences: December 2, 2020 1 session
May 6, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: December 14, 2021 1 session

Total Hearing Session Fees = \$ 150.00

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

Robert J. Ambrogi

-

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

Robert J. Ambrogi

Robert J. Ambrogi
Sole Public Arbitrator

01/18/2022

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 19, 2022

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