

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

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In the Matter of the Arbitration Between:

Claimant  
Ying Zhang

Case Number: 20-02649

vs.

Respondent  
Morgan Stanley

Hearing Site: San Francisco, California

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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 Ying Zhang (“Claimant”): Benjamin Winograd, Esq., HLBS Law, Westminster, Colorado.

For Respondent Morgan Stanley (“Respondent”): Patrick Mulligan, Esq., Bressler, Amery & Ross, P.C., Birmingham, Alabama.

**CASE INFORMATION**

Statement of Claim filed on or about: August 17, 2020.

Amended Statement of Claim filed on or about: September 24, 2020.

Claimant signed the Submission Agreement: August 17, 2020.

Statement of Answer filed by Respondent on or about: October 8, 2020.

Respondent signed the Submission Agreement: October 8, 2020.

**CASE SUMMARY**

In the Statement of Claim and Amended 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 expungement request.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1613861 from Claimant's CRD records pursuant to FINRA Rule 2080, as:
  - a. the claim, allegation, or information is factually impossible or clearly erroneous; and/or
  - b. Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and/or
  - c. the claim, allegation, or information is false;
2. Compensatory damages in the amount of \$1.00 from Respondent; and
3. Any and all other relief that the Arbitrator deems just and equitable.

In the Amended Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1613861 from Claimant's 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 1613861 from Claimant's 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 accompanying Occurrence Number 1613861;
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. Compensatory damages in the amount of \$1.00 be denied; and
2. All forum fees be assessed against Claimant.

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.

On April 26, 2021, Claimant advised that the customer in Occurrence Number 1613861 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing. On May 3, 2021, Claimant filed an Affidavit confirming that the Customer was 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 June 9, 2021 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing.

The Customer's representative participated in the expungement hearing and opposed the expungement request.

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.

## **FINDINGS**

It is unlikely the Customer understood all the subtleties and risks of the investments in which her money was placed. Although Claimant said she was joking when she told the Customer that she didn't understand all of a prospectus either, it demonstrates that the Customer probably did not. Claimant admitted she did not understand all the legalese herself. When the Customer's husband died, the Customer was clear that she wanted income and it probably was not prudent to keep all of the four accounts with different risk-tolerance levels open. Claimant testified that at first, she had to show the Customer how to write a check and how to pay bills, but one year later, she became sophisticated and understood everything. There were multiple contradictions in Claimant's testimony about the Customer's sophistication and understanding and how the accounts were supposedly adapted to the changing conditions after the Customer was widowed.

## **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's (CRD #2158046) request for expungement of Occurrence Number 1613861 from her 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
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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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**Postponement Fees**

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

February 9, 2021, postponement requested by PARTIES	= \$	50.00
April 28, 2021, postponement requested by Claimant	= \$	50.00
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Total Postponement Fees	= \$	100.00

The Arbitrator has assessed \$75.00 of the postponement fees to Claimant.

The Arbitrator has assessed \$25.00 of the postponement fees to Respondent.

**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: December 17, 2020	1 session	
One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: June 9, 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**

Daniel M. Yamshon

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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**

***Daniel M. Yamshon***

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Daniel M. Yamshon  
Sole Public Arbitrator

**06/16/2021**

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Signature Date

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June 17, 2021

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