

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Timothy Vincent Longo

Case Number: 20-03183

vs.

Respondents
Morgan Stanley DW Inc.
Trident Partners Ltd.

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. Members

The evidentiary hearing was conducted partially by videoconference.

REPRESENTATION OF PARTIES

For Claimant Timothy Vincent Longo: Thomas P. McEvoy, Esq., and Michael H. Ference, Esq., Sichenzia Ross Ference LLP, New York, New York.

For Respondent Morgan Stanley DW Inc. (“Morgan Stanley”): Jeremy S. Winer, Esq., Morgan Stanley, New York, New York.

Respondent Trident Partners Ltd. did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: September 11, 2020.

Timothy Vincent Longo signed the Submission Agreement: September 11, 2020.

Statement of Answer filed by Respondent Morgan Stanley DW Inc. on or about: November 16, 2020.

Morgan Stanley DW Inc. signed the Submission Agreement: November 16, 2020.

Trident Partners Ltd. did not file a Statement of Answer or 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, Respondent Morgan Stanley took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1297892 and 1531399; and compensatory damages in the amount of \$1.00 from Respondent.

In the Statement of Answer, Respondent Morgan Stanley requested that the \$1.00 in compensatory damages be denied.

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.

Respondent Trident Partners Ltd. did not file a Statement of Answer or properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure (“Code”) and is bound by the determination of the Arbitrator on all issues submitted.

On September 8, 2021, Claimant advised that the customers in Occurrence Numbers 1297892 and 1531399 were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded in-person hearing on September 15, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondent Morgan Stanley participated in the expungement hearing by videoconference.

Respondent Trident Partners Ltd. did not participate in the expungement hearing.

The customers in Occurrence Numbers 1297892 and 1531399 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 occurrences in the CRD.

The Arbitrator was unable to review the settlement documentation related to Occurrence Number 1297892. Due to the age of the underlying Occurrence, the settlement agreement disposing of the claim is no longer available. The Arbitrator considered the amount of payment made to any party to the settlement. Based on Claimant's testimony, 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 reviewed the settlement documentation related to Occurrence Number 1531399, 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. Although Claimant contributed the settlement amount, the Arbitrator still recommends expungement as Claimant paid the settlement amount in order to avoid the cost and loss of clients a transfer to another firm would have created. Claimant testified that he had a hold harmless agreement with his firm (Trident Partners Ltd.) and was responsible to pay any settlement.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings; Claimant's testimony; Claimant's BrokerCheck® Report; settlement agreement; and the 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 1297892 from registration records maintained by the CRD for Claimant Timothy Vincent Longo (CRD Number 3059691) with the understanding that, pursuant to Notice to Members 04-16, Claimant Timothy Vincent Longo 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 claim, allegation, or information is false.

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

The underlying customers alleged that Claimant was responsible for losses incurred in the tech market. The claim was made approximately four years after the relationship ended. Respondent settled the case for nuisance value of \$35,000 after a recorded lengthy conversation between customers and Claimant was played at the mediation session, proving that Claimant had strongly recommended the customers to diversify.

This corroborated Claimant's version, in which he stated the customers repeatedly rejected his advice.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1531399 from registration records maintained by the CRD for Claimant Timothy Vincent Longo (CRD Number 3059691) with the understanding that, pursuant to Notice to Members 04-16, Claimant Timothy Vincent Logo 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 claim, allegation, or information is false.

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

The underlying customer, a close relative of Claimant, alleged in 2010 that he suffered losses in the market because Claimant had ignored his request to sell his entire portfolio in 2008. Claimant denied that request ever took place. Claimant's version was corroborated by evidence of numerous conversations from 2008 in which they discussed the existing portfolio, conversations which belied the customer's claim that he directed Claimant to sell the entire portfolio years earlier. The customer's continued interactions with Claimant about the management of the account contradicted his contention that he wanted all of his holdings sold years ago.

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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as parties, Respondent Morgan Stanley DW Inc. and Trident Partners Ltd. are each 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: January 20, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: September 15, 2021 1 session

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

Patricia Kathleen Costello

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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

Patricia Kathleen Costello

Patricia Kathleen Costello
Sole Public Arbitrator

09/22/2021

Signature Date

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September 22, 2021

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