

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

William Christopher Valenti

Case Number: 21-00195

vs.

Respondent

Morgan Stanley

Hearing Site: Tampa, Florida

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 William Christopher Valenti: Joel M. Everest, Esq., Bressler, Amery & Ross, P.C., Birmingham, Alabama.

For Respondent Morgan Stanley: Trae D. Meyr, Esq., Morgan Stanley, St. Petersburg, Florida.

CASE INFORMATION

Statement of Claim filed on or about: January 26, 2021.

William Christopher Valenti signed the Submission Agreement: January 25, 2021.

Statement of Answer filed by Respondent on or about: March 16, 2021.

Morgan Stanley signed the Submission Agreement: February 5, 2021.

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 took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested that his good name and reputation be restored, and that the Arbitrator make a finding that all references to Occurrence Numbers 1398440 and 1884145 be expunged from his CRD based upon the FINRA expungement provisions.

In the Statement of Answer, Respondent requested that any damages requested against it be denied, and pursuant to FINRA Rule 12805(d), Respondent requests that any and all forum fees for this matter, which solely concerns expungement, be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On August 11, 2021 and November 17, 2021, Claimant advised that the customers in Occurrence Numbers 1398440 ("Customers A") and 1884145 ("Customer B") were served with the Statement of Claim and notice of the date and time of the expungement hearing.

On September 7, 2021, Customer B filed notice of his objection to expungement, as well as various exhibits, and detailed the events of Occurrence Number 1884145.

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

Respondent participated in the expungement hearing and as stated in the Statement of Answer, took no position on the request for expungement.

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

Customer B, along with Customer B's witness, participated in the expungement hearing and opposed the expungement request.

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 noted that the disputes related to Occurrence Numbers 1398440 and 1884145 were not settled and, therefore, there were no settlement documents to review.

In recommending expungement of Occurrence Number 1398440, the Arbitrator relied upon the following documentary or other evidence: the testimony of Claimant, Exhibit B (the denial letter dated April 17, 2008), Exhibit C (the Hartford Annuity application), and Exhibit D (the Hartford quarterly statement).

In recommending expungement of Occurrence Number 1884145, the Arbitrator relied upon the following documentary or other evidence: the testimony of Claimant, Customer B, and Customer B's witness, Exhibit F (Respondent's denial letter to Customer B), Exhibit G (yearly letter from Lincoln Financial to Customer B beginning March 25, 2015, and approximately one year prior to the complaint, explaining change in monthly income under Guaranteed Income Benefit Rider), and Exhibit H (numerous statements showing change in monthly income subject to market conditions).

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. The Arbitrator recommends the expungement of all references to Occurrence Numbers 1398440 and 1884145 from registration records maintained by the CRD for Claimant William Christopher Valenti (CRD Number 3252326) with the understanding that, pursuant to Notice to Members 04-16, Claimant William Christopher Valenti 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 findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

The claim, allegation, or information is false.

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

The essence of Customers A’s complaint corresponding to Occurrence Number 1398440 was that they were unaware that they had purchased an annuity and that it was unsuitable. Customers A signed numerous documents including the annuity application, letter of authorization to transfer funds to purchase the annuity, and received quarterly statements reflecting the annuity. In addition, Claimant testified that he had numerous conversations with Customers A regarding the annuity both before and after purchase, and that Customer A1 called him apologizing about the complaint stating that he thought he could receive a quick payment from the company’s insurer. Customers A owned the annuity for approximately a year and a half before the complaint. Finally, the annuity was suitable in view of Customers A’s moderate risk tolerance.

In Customer B’s complaint corresponding to Occurrence Number 1884145, Customer B alleged that he was told the income he would receive from the annuity would never decrease. Multiple documents signed by Customer B, and the statements that he continues to receive, clearly show that the annuity has a minimum monthly income guarantee but would fluctuate depending on market conditions.

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:

Expungement Filing Fee = \$ 1,575.00

**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 events giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge = \$ 1,900.00
Member Process Fee = \$ 3,750.00

Postponement Fees

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

September 2, 2021, postponement requested by Parties = \$ 450.00

Total Postponement Fees = \$ 450.00

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 ten calendar days before the start of a scheduled hearing session:

August 20, 2021, cancellation requested by Parties = \$ WAIVED

Total Last-Minute Cancellation Fees = \$ WAIVED

FINRA administratively waived the \$600.00 last-minute cancellation fee.

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) hearing session on expungement request @ \$1,125.00/session = \$ 1,125.00
Hearing: December 9, 2021 1 session

Total Hearing Session Fees = \$ 1,125.00

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

Richard S. Zaifert

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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

Richard S. Zaifert

Richard S. Zaifert
Sole Public Arbitrator

12/15/2021

Signature Date

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December 15, 2021

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