

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
David Hugh Bindelglass

Case Number: 21-00901

vs.

Respondent
Morgan Stanley

Hearing Site: Jersey City, New Jersey

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 David Hugh Bindelglass: Dochter Kennedy, MBA, J.D. and Benjamin Winograd, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Morgan Stanley: Alejandro Schwed, Esq., Morgan Stanley Smith Barney, LLC, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: April 6, 2021.

David Hugh Bindelglass signed the Submission Agreement: April 6, 2021.

Statement of Answer filed by Respondent on or about: June 1, 2021.

Morgan Stanley signed the Submission Agreement: June 1, 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 made in the Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1887197, 1965957, 1967574 and 2000846; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent did not set forth a specific relief request.

OTHER ISSUES CONSIDERED AND DECIDED

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

The parties agreed that pursuant to Rule 13401(c) of the Code of Arbitration Procedure, this matter would be decided by one arbitrator.

On October 20, 2021, Claimant advised that the customers in Occurrence Numbers 1887197, 1965957, 1967574 and 2000846 were served with the Statement of Claim and notice of the date and time of the expungement hearing. On October 25, 2021, Claimant filed an Affidavit confirming that 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 November 17, 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, did not oppose the request for expungement.

The customers in Occurrence Numbers 1887197, 1965957, and 2000846 did not participate in the expungement hearing. The Arbitrator found that the customers had notice of the expungement request and hearing.

The customer in Occurrence Number 1967574 did not participate in the expungement hearing but 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 also reviewed the settlement documentation related to Occurrence Numbers 1887197, 1965957 and 2000846, considered the amount of payment made to any party to the settlements, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on any party to the settlements not opposing the expungement request and that Claimant did not contribute to the settlement amounts.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings; Claimant's testimony; Claimant's BrokerCheck® Report; 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. Claimant's request for expungement of Occurrence Numbers 1967574 from registration records maintained by the CRD is denied.
2. The Arbitrator recommends the expungement of all references to Occurrence Number 1887197 from registration records maintained by the CRD for Claimant David Hugh Bindelglass (CRD Number 3201389) with the understanding that, pursuant to Notice to Members 04-16, Claimant David Hugh Bindelglass 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 customer was a moderately experienced investor, whose stated investment objectives were growth and income. The customer was fully advised of the risks and advantages of the purchase of the Puerto Rico Bonds which, in 2007, when the purchase was made, were highly rated, and had a satisfactory history of regular payments. The purchase was suitable at the time of purchase in 2007, ten years before the Puerto Rico default and bankruptcy in 2017. The matter was settled without participation or contribution by Claimant.

3. The Arbitrator recommends the expungement of all references to Occurrence Number 1965957 from registration records maintained by the CRD for Claimant David Hugh Bindelglass (CRD Number 3201389) with the understanding that, pursuant to Notice to Members 04-16, Claimant David Hugh Bindelglass 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:

Respondent's equity team recommended the purchase which was performing well. The letter of denial advised the customer that their objectives were being met and that at the time of the purchase of the disputed stocks, in line with the customer's investment objectives of income and capital appreciation. The customer was advised at all times of trading activity, balances and changes in the value of his investments. The customer and Respondent settled for \$5,657.26 without participation or contribution by Claimant.

4. The Arbitrator recommends the expungement of all references to Occurrence Number 2000846 from registration records maintained by the CRD for Claimant David Hugh Bindelglass (CRD Number 3201389) with the understanding that, pursuant to Notice to Members 04-16, Claimant David Hugh Bindelglass 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 customer was an experienced investor, whose investment objective was growth and whose risk tolerance was moderate-aggressive. He communicated regularly with Claimant and received regular statements and confirmation of all activity. As part of a diversified portfolio, the purchase of the disputed stock in 2008 was suitable when made. The matter was settled without Claimant's participation or contribution.

5. 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	= \$ 1,575.00
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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 a party, Respondent Morgan Stanley is assessed the following:

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

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 @ \$1,125.00/session	= \$ 1,125.00
Pre-Hearing Conference: August 9, 2021	1 session

One (1) hearing session on expungement request @ \$1,125.00/session	= \$ 1,125.00
Hearing: November 17, 2021	1 session

Total Hearing Session Fees	= \$ 2,250.00
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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

Joan M. Traub

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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

Joan M. Traub

Joan M. Traub
Sole Public Arbitrator

12/03/2021

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.

December 03, 2021

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