

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

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In the Matter of the Arbitration Between:

Claimant  
Jalaleddin Afifi

Case Number: 21-00918

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

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Jalaleddin Afifi: Robert L. Gonser, Esq., Gonser Law PC, Lafayette, California.

For Respondent Morgan Stanley: Kathryn Alessi, Esq. and Scott T. Nonaka, Esq., Sidley Austin LLP, San Francisco, California.

**CASE INFORMATION**

Statement of Claim filed on or about: April 9, 2021.

Claimant signed the Submission Agreement: April 7, 2021.

Statement of Answer filed by Respondent on or about: June 22, 2021.

Respondent signed the Submission Agreement: June 22, 2021.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted a claim alleging that the Form U5 filed by Respondent, as part of the registration records maintained by the Central Registration Depository (“CRD”), is defamatory in nature.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Compensatory damages according to proof due to the loss of income suffered by Claimant and the rescission of the offer of employment from Charles Schwab based on the disclosure;
2. Costs, including filing fees; and
3. Expungement of the CRD disclosure #52713765 from Claimant's record.

In the Statement of Answer, Respondent requested:

1. Claimant's claims be dismissed in their entirety with prejudice;
2. Costs and attorneys' fees in defending this action; and
3. Such other and further relief, including any equitable relief, as the Panel determines is just and proper.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On January 24, 2022, Respondent filed a motion for the evidentiary hearing to proceed by videoconference. On January 31, 2022, Claimant filed an opposition to the motion. On February 7, 2022, Respondent filed a reply in support of its motion. On February 8, 2022, the Panel granted Respondent's motion.

The Award in this matter may be executed in counterpart copies.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claim for damages is denied in its entirety.
2. The Panel recommends the expungement of the Reason for Termination and Termination Explanation in Section 3 of Jalaeddin Afifi's (CRD Number 6723077) Form U5 filed by Morgan Stanley (CRD Number 149777) on October 15, 2019 and maintained by the Central Registration Depository ("CRD"). The Reason for Termination shall be changed to "Other." The Termination Explanation shall be replaced with the following language: "Conflict of interest due to engaging in potential employment discussions with competitor using firm e-mail. Non sales practice or client related." This directive shall apply to all references to the Reason for Termination and Termination Explanation.

The Panel recommends expungement based on the defamatory nature of the information. The above recommendations are made with the understanding that the registration records are not automatically amended. Jalaeddin Afifi must forward a copy of this Award to FINRA's Credentialing, Registration, Education and Disclosure Department for review.

3. Any and all claims for relief not specifically addressed herein, including any requests for attorneys' fees, are denied.

**FEES**

Pursuant to the Code of Arbitration Procedure ("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

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

**Hearing Session Fees and Assessments**

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator(s), including a pre-hearing conference with the Arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the Panel @ \$1,125.00/session = \$ 1,125.00  
Pre-Hearing Conference: July 29, 2021 1 session

Four (4) hearing sessions @ \$1,125.00/session = \$ 4,500.00  
Hearings: March 3, 2022 2 sessions  
March 4, 2022 2 sessions

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Total Hearing Session Fees = \$ 5,625.00

The Panel has assessed \$2,812.50 of the hearing session fees to Claimant.

The Panel has assessed \$2,812.50 of the hearing session fees to Respondent.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

**ARBITRATION PANEL**

|                        |   |  |
|------------------------|---|--|
| Dean J. Dietrich       | - | Public Arbitrator, Presiding Chairperson |
| Julianne Averill       | - | Public Arbitrator                        |
| Andrew Kennon Jennings | - | Non-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.

**Concurring Arbitrators' Signatures**

***Dean J. Dietrich***

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Dean J. Dietrich  
Public Arbitrator, Presiding Chairperson

***03/21/2022***

\_\_\_\_\_  
Signature Date

***Julianne Averill***

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Julianne Averill  
Public Arbitrator

***03/18/2022***

\_\_\_\_\_  
Signature Date

***Andrew Kennon Jennings***

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Andrew Kennon Jennings  
Non-Public Arbitrator

***03/18/2022***

\_\_\_\_\_  
Signature Date

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March 22, 2022

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