

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Kelly Davies Chimera

Case Number: 21-00325

vs.

Respondent
Morgan Stanley

Hearing Site: Houston, Texas

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 Kelly Davies Chimera (“Claimant”): Steven J. Berry, Esq., Berry Odom LLP, Fort Worth, Texas.

For Respondent Morgan Stanley (“Respondent”): Jeffrey P. Palmer, Esq., Greenberg Traurig, LLP, East Palo Alto, California.

CASE INFORMATION

Statement of Claim filed on or about: February 8, 2021.
Claimant signed the Submission Agreement: February 4, 2021.

Statement of Answer filed on or about: March 31, 2021.
Respondent signed the Submission Agreement: March 31, 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 denied any wrongdoing and asserted various affirmative defenses but did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1511992 and such other and further relief as the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that Claimant's request for damages be denied.

OTHER ISSUES CONSIDERED AND DECIDED

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

On August 16, 2021, Claimant advised that the customer in Occurrence Number 1511992 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). Claimant also filed a copy of the USPS tracking information available online for the Notice.

The Arbitrator conducted a recorded, telephonic hearing on August 20, 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 Customer did not participate in the expungement hearing. The Arbitrator found that the Customer 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 occurrence in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Number 1511992, 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 and that Claimant did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony; Claimant's former supervisor's testimony; pleadings; and Claimant's exhibits, including extensive account records, BrokerCheck® Report, and settlement documentation.

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 Number 1511992 from registration records maintained by the CRD for Claimant Kelly Davies Chimera (CRD Number 2820600) with the understanding that, pursuant to Notice to Members 04-16, Claimant Kelly Davies Chimera 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 registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and

The claim, allegation, or information is false.

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

The Customer’s underlying complaint is not true. Claimant had not even been hired at the time the Customer chose the investment, and her later interactions with the Customer were primarily of an administrative nature. Claimant did not give the Customer advice or make any recommendations. The evidence also showed that, when the Customer chose the investment, all risks associated with it were fully disclosed. The Customer was an experienced and sophisticated investor, and, as evidenced by numerous documents she signed, she repeatedly acknowledged that she was fully informed of all risks associated with the speculative investment strategy that she chose. In fact, the Customer acknowledged that the investment strategy she had chosen “may result in potentially unlimited losses, including a risk of loss of all of the assets contained in client’s account...” Moreover, the Customer’s stated investment objectives were aggressive growth and growth and the investment met these stated objectives.

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	= \$ 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(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 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 @ \$1,125.00/session	= \$	1,125.00
Pre-Hearing Conference: June 4, 2021	1 session	
One (1) hearing session on expungement request @ \$1,125.00/session	= \$	1,125.00
Hearing: August 20, 2021	1 session	
<hr/> Total Hearing Session Fees		= \$ 2,250.00

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

Lynne M. Gomez

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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

Lynne M. Gomez

Lynne M. Gomez
Sole Public Arbitrator

08/24/2021

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.

August 24, 2021

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