Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
Ardian Hasko

Case Number: 15-03434

vs.

Respondents
Morgan Stanley Smith Barney LLC
John Joseph Biondo, Jr.
William Michael Peragine, III

Hearing Site: New York, New York

Nature of the Dispute: Associated Person vs. Member and Associated Persons

REPRESENTATION OF PARTIES

Claimant Ardian Hasko: Pro Se.

For Respondents Morgan Stanley Smith Barney LLC ("Morgan Stanley"), John Joseph Biondo, Jr. and William Michael Peragine, III: Tracy L. Gerber, Esq., Greenberg Traurig, P.A., West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed on or about: December 21, 2015.
Ardian Hasko signed the Submission Agreement: December 21, 2015.

Statement of Answer filed by Respondents on or about: April 8, 2016.
Morgan Stanley signed the Submission Agreement: April 7, 2016.
John Joseph Biondo, Jr. signed the Submission Agreement: April 8, 2016.
William Michael Peragine, III signed the Submission Agreement: April 8, 2016.

CASE SUMMARY

Claimant asserted the following causes of action: defamation, breach of contract, quantum meruit and/or unjust enrichment, wrongful termination, violation of the New York Labor Law, retaliation and failure to pay severance.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

a) damages for Morgan Stanley's defamatory statements upon Hasko's Form U5 in an amount to be determined at the hearings including, but not limited to, damages for lost commissions as a result of Hasko's lost customers and general damages;
b) $7,446.00 bonus for 2014;
c) $185,000.00 for the improper forfeiture of Hasko's deferred compensation and 401(k) matching funds;
d) back pay plus benefits, in an amount to be determined at the hearings, but in any event not less than $200,000 per year for Morgan Stanley's wrongful termination of Hasko's employment and for Biondo's and Peragine's tortious interference with Hasko's employment and contract with Morgan Stanley;
e) reinstatement or front pay plus benefits and reasonable increases, in an amount to be determined at the hearings, but in any event not less than $200,000 per year for the wrongful termination of Hasko's employment;
f) severance pay, in an amount to be determined at the hearings, as well as any and all other related benefits due Hasko;
g) attorney's fees, and costs incurred in pursuing this arbitration, and liquidated damages, each pursuant to the New York Labor Law;
h) punitive damages;
i) 9% interest per year;
j) expungement of Morgan Stanley's defamatory statements from FINRA's databases and reformation of Hasko's Form U5 to reflect that his employment was terminated without cause; and
k) an award against Biondo and Peragine for back pay plus benefits, in an amount to be determined at the hearings, but in any event not less than $200,000 per year plus 9% interest per year; and
l) such other and further relief as the Panel deems just and appropriate.

In the Statement of Answer, Respondents requested that Claimant's claim be denied in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about December 7, 2017, Claimant filed a Motion for Sanctions. Respondents opposed Claimant's Motion. By Order dated December 29, 2017, the Panel denied Claimant's Motion for Sanctions.

At the evidentiary hearing, the parties agreed to dismiss Respondents John Joseph Biondo, Jr. and William Michael Peragine, III, with prejudice.

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows. The parties did not request an explained decision by the Panel pursuant to FINRA Rule 13904(g).

1. Respondents John Joseph Biondo, Jr. and William Michael Peragine III were dismissed with prejudice by the Claimant during the evidentiary hearing. It was agreed that Messrs. Biondo and Peragine would incur no costs, any costs associated with them and charged to Respondents were agreed to be absorbed by Morgan Stanley.

2. All the Claimant's claims as stated in the above Claimant's Statement of Claim are denied in their entirety, and except for expungement, the Panel unanimously holds for the Respondent. Any and all claims for relief not specifically addressed herein, including punitive damages and attorneys' fees are denied;

3. On expungement, the Panel unanimously holds, as follows, as of the effective date of this Award:
   a. Section 7F. (1) of the Claimant's December 22, 2014 Form U5 ("Original U-5") marked "Yes", shall remain marked "Yes", because it was factually correct regarding what transpired after the Respondent's "allegations", even though the Panel, after the evidentiary hearing, found proof of termination for cause ultimately deficient;
   b. Consistent with 7F. (1) of the Original U-5, Disclosure Question 14J (1) under Termination Disclosure of the Claimant's U-4, also marked "Yes" shall remain marked "Yes", for the reason set forth in subparagraph (a) immediately preceding;
   c. The Panel unanimously orders as of the effective date of this Award the expungement of the Termination Comment in Section 3 of Claimant Ardian Hasko's (CRD# 6051577) Form U5 filed by Morgan Stanley Smith Barney LLC on December 22, 2014 and maintained by the Central Registration Depository ("CRD"). The Termination Comment should be changed to AT-WILL DISCHARGE UNDER NEW YORK LAW. NO CUSTOMER COMPLAINTS RECEIVED ABOUT ALLEGED MISMARKING OF TRADES OR TWO ALLEGED TIME AND PRICE VIOLATIONS.

      Item 4 of the Termination Disclosure Reporting of the Original U-5 which read:

      "ALLEGATIONS REGARDING ACCURACY OF 'UNSOLICITED' DESIGNATION WITH RESPECT TO CERTAIN TRADES AND REGARDING EMPLOYEE'S EXERCISE OF TIME AND PRICE DISCRETION IN TWO CLIENT ACCOUNTS.",

shall be expunged and consistent with the unanimous decision of the Panel that Claimant's termination was, under New York law, "at-will" and not "for cause", as of the effective date of this Award, minimally modified to read:

"AT-WILL DISCHARGE UNDER NEW YORK LAW. NO CUSTOMER COMPLAINTS RECEIVED ABOUT ALLEGED MISMARKING OF TRADES OR TWO ALLEGED TIME AND PRICE VIOLATIONS."

4. Consistent with this holding the Panel mandates that the above orders shall apply to subsequent disclosures of the event in the Claimant's CRD records, including but not limited to the U4-AMENDMENT OF 01/29/2015 filed by WUNDERLICH SECURITIES, INC. (CRD# 2543).

Dissenting. Arbitrator White: DISSENTING FROM THE MAJORITY AWARD EXCEPT AS SET FORTH IN PARAGRAPHS 1-4 ABOVE ON WHICH THE PANEL IS UNANIMOUS.

TO THE COURT: FINRA and the current majority of the panel, are offering a Hobson's Choice to a pro se claimant. He was unable to hire counsel to represent him in a long evidentiary hearing following withdrawal, without explanation by the law firm that represented him 3 weeks prior to the hearing, to try to retain counsel, and then to incur additional time and expense, merely to rubber stamp the entire panels' unanimous decision based on the record and pleadings before it. Besides a waste of the court's time, this process is not required as a matter of law in a FINRA Industry Dispute arbitration. The facts of this case also don't warrant court confirmation. The parties, and the panel after hearing, agree that there was no customer information at issue. The U5 drafted by Respondent Morgan Stanley so states. The panel unanimously found for the Respondent on all counts, except expungement, and did not award damages. It was not a case that involved wrongful termination practices, or that entailed discrimination or other violations of civil rights. The panels' unanimous expungement decision, reflected in paragraph 3.c. of what is termed the "Provisional Award" section of the award, was minimalist. It modified a well-crafted U5 statement by Respondent Morgan Stanley, designed to avoid a defamatory in nature claim, that was true at the time, but misrepresents the facts after the panel's decision. The Panel wanted it clearly stated in the Claimant's U5 that his was an at-will discharge under New York law, and not one "for cause", as alleged, in part, by the Respondent Morgan Stanley. This relief was consistent with that pled by the Claimant, as noted in paragraph (j) of the Relief Requested section of this award. It is ironic, that FINRA's Office of Dispute Resolution, whose purpose is to present a forum to encourage dispute resolutions, offered no compromises to its position, and never responded to the numerous compromises offered by the Chairperson. It did so despite FINRA's lack of legal authority to compel court confirmation of an arbitral award or to require a claimant to have his CRD records (including the U5 and U4) changed pursuant to an arbitral award without court confirmation. FINRA has stonewalled on compromise and on providing a duly promulgated Rule upon which its authority to compel court confirmation must be based

in Industry Dispute arbitrations. Courts have likely assumed FINRA was not acting ultra vires in mandating such confirmations. This court need not do so.

The Law

FINRA's Rule 2080, which governs expungement relief in Customer Disputes, is very clear about court confirmation and there is good reason for it. Paragraph (a) provides:

"(a) Members or associated persons seeking to expunge information from the CRD system arising from disputes with customers must obtain an order from a court of competent) jurisdiction directing such expungement or confirming an arbitration award containing expungement relief."

FINRA has no Rule for Industry Disputes. FINRA Rule 13904 governs Awards in Industry Disputes. It does not require or even mention court confirmation. Paragraph (b) comes the closest but only provides. It is more about vacatur under the Federal Arbitration Act.

"(b) Unless the applicable law directs otherwise, all awards rendered under the Code are final and are not subject to review or appeal."

FINRA's website alone provides that from April 12, 2009 Rule 13904 has been amended 6 times and there have been 3 Notices published since April 16, 2007. FINRA Rule 2080 was adopted on April 12, 2004 (SR-NASD-2002-168) and was last amended on August 17, 2009. FINRA could have promulgated a companion Rule for Industry Disputes, then or any time thereafter, or modified Rule 13904, to so provide. It never has.

David Carey, who I believe is an Associate Director of FINRA, was the only person within FINRA to respond to my request for a FINRA Rule that mandates court confirmation of an arbitral award by a panel in an Industry Dispute. The substantive part of his June 29, 2018 response I will quote verbatim.

"FINRA's Expungement Training for Arbitrators states, "a broker may request expungement of the reason for termination reported on his or her CRD record by a former employer. Since this request does not involve customer dispute information, arbitrators may recommend expungement of this information from the CRD system… FINRA will expunge the referenced information if the award is confirmed by a court of competent jurisdiction." This link provides additional information http://www.finra.org/sites/default/files/FINRA-Expungement-Training.pdf.

FINRA's Registration and Disclosure Department (FINRA RAD) will not automatically amend a broker's registration records to include a panel's expungement recommendation. Specifically, the panel recommends expungement and a court will generally confirm an award with an expungement recommendation and the broker must forward a copy of the court order to FINRA RAD for review.

If arbitrators recommend expungement of non-customer dispute information and also determine that the information is defamatory in nature, FINRA will expunge the

information without a court order. In this case, the panel did not find that the language in the original Form U5 was defamatory.

FINRA's procedures provide that staff will prepare an award based on the information the panel provides staff in the Award Information Sheet. The staff will not attempt to influence a panel's decision. The Panel has sole authority to decide the case. Our procedures are intended to ensure that the award accurately captures a Panel's decision. When an award involves expungement, our procedures provide that Case Administration staff will assist a Panel in finalizing the expungement language so that the language complies with FINRA's Notice to Members 99-54 at http://www.finra.org/industry/notices/99-54 or Rule 2080 relating to expungement of customer dispute information. This link provides additional information http://www.finra.org/industry/crd/rule-2080-frequently-asked-questions."

The Notice to Members 99-54 is curious authority for mandated court confirmation. It is a request for comment and pre-dates, FINRA distinguishing between Customer and Industry Disputes through promulgation of Rule 2080.

No Rule being mentioned in Mr. Carey's email I then asked Mr. Carey, and later requested a written opinion from FINRA's Chief Legal Officer, to discern the FINRA Rule that required court confirmation. In response to the latter, I received a copy of a July 31, 2018 letter t to Mr. Richard Berry, Executive Vice President and Director of FINRA's Office of Dispute Resolution from Assistant General Counsel Angela Saffoe of FINRA's Office of General Counsel. It read as follows: "FINRA's Office of General Counsel, on behalf of FINRA, does not intervene or participate in pending matters in the arbitration forum." They, Mr. Carey and others only needed to provide a Rule. None of them can.

The Notice to Members 99-54 concerned in pertinent part relevant to this issue, that a defamatory in nature waiver for court confirmation was still available, but never referenced any Rule that would mandate court confirmation in the first place. NASD did not yet distinguish between Customer and Industry Disputes, so the Notice is unclear whether it was only referring to Customer Disputes. FINRA with the promulgation of Rule 2080 for Customer Disputes and with no Rule for Industry Disputes distinguishes between the two today.

FINRA, the successor organization to the NASD, as a self-regulatory organization ("SRO"), is a product of the Securities Exchange Act of 1934 and for which the SEC provides ultimate governance. As does an administrative agency, an SRO must regulate by Rule, and may establish procedural practices and guidelines consistent with those Rules. For the benefit of the community it serves, the SRO may create and publish training manuals to enhance compliance. As is clear from Mr. Carey's email advice to me as Chairperson, it purportedly only has internal procedures. These procedures are not known to the public and were never provided to me as Chairperson, even in pertinent part. It is not known if these are written procedures, if there are exceptions or conditions to these procedures, or if they are current. All that the FINRA arbitral community knows is what are in the Expungement Training Manuals. However, these only apply to FINRA Rule 2080, and to FINRA Code of Arbitration Procedural

Rules 12805 and 13805. Both Rule 12805 and 13805 only apply to "Expungement of Customer Dispute Information under Rule 2080", the former relating to Customer Dispute Arbitrations and the latter to Industry Dispute Arbitrations. On the face of the Claimant's U5, as provided in paragraph 3.c of the Provisional Award section of the award, none of these Rules apply to this case. Mr. Carey also provided a link to frequently-asked-questions about Rule 2080, which again is inapplicable. FINRA also publishes on its Portal a Notice to Arbitrators and Parties on Expanded Expungement Guidance (updated September 2017) which is provided to arbitrators as part of their packet of information. http://www.finra.org/arbitration-and-mediation/notice-arbitrators-and-parties-expanded-expungement-guidance.

This Guidance also only applies to Rule 2080, Rules 12805 and 13805, and Rule 2081 (also limited to Customer Dispute Information related to settlements, neither of which apply here). FINRA has on its website, FINRA Office of Dispute Resolution Arbitrator's Guide (March 2018 edition). It addresses expungement, but only in the context of Rules 2080, 12805 and 13805. It does not mention mandatory or even permissive court confirmation in Industry Dispute Arbitrations. If a panelist does not recognize the reference to a panel's arbitral award as "recommendations" in the transmittal of the award by FINRA to the panel for execution, it may not know that FINRA will be requiring court confirmation in an Industry Dispute arbitration. This, as the case here, would occur if the dispute did not implicate customer dispute information. The public is also left in the dark about this when it reads FINRA's website. https://www.finra.org/arbitration-and-mediation/decision-award.

In short, FINRA has no legal authority to compel court confirmation of an arbitral of award of a panel in an Industry Dispute Arbitration absent a Rule so providing, unless Rule 13805 or Rule 13904 (b) apply. Neither apply here, so as a matter law, the panel's decision and award are self-executing. Internal procedures, particularly unpublished procedures known to public, including parties, counsel and arbitrators are no substitute. Procedures must be based on Rules. No deference is required and is in fact irrelevant. FINRA must have legal authority for its actions, independent of what an arbitration panel believes or decides. A Panel cannot create legal authority FINRA does not have. It is not a matter of the Panel imposing its will on FINRA or conditioning an award. FINRA since 1999 could have created such authority by promulgating a Rule applicable to Industry Disputes as it did for Customer Disputes under Rule 2080. It has not, and the court should hold that the panel's award was self-executing and required no court confirmation of the award or to change the Claimant's CRD records even without any finding that the U5 was defamatory in nature.

Egregious Misconduct by FINRA

To try to achieve a compromise with the then dissenter on the Panel, and to address the concern expressed by FINRA RAD to Mr. Carey about automatic expungement record changes without court confirmation, the award of the then majority of the Panel, had added a paragraph 5 (and a dissent by Mr. Brill) to the then Award section[1]. The legal

[1] FINRA has specific rules governing expungement of customer dispute information from the associate member's CRD. All the parties, the entire Panel, and FINRA agree that no customer information needs to be expunged from the Claimant's CRD files, because as provided in the Original U-5 and restated in this Award, there were no customer complaints received by Respondent Morgan Stanley regarding the allegations made in the Original U-5 as heard and decided by the Panel in its evidentiary hearing. FINRA Regulatory Notice 08-79, dated December 2008, states, in pertinent part, that the rules set forth in that Notice do not apply to non-customer information in intra-industry disputes and that expungement of such information may be ordered by the arbitrator(s) if the award provides that such relief was granted because of the defamatory nature of the information ordered expunged. The Notice cites in support of this finding of defamatory information, FINRA Notice 04-16 effective April 12, 2004, although that Notice applied to NASD Rule 2130, and only to customer dispute information. Notice 04-16, in this regard, cited a 1999 Notice to Members seeking comment on this defamatory practice (NASD Notice to Members 99-54, July 1999) which too only applied to customer disputes.

The parties in this case did not request of the Panel that it find the information in the Original U-5 defamatory. The Panel would not have so found if it was requested, because at the time of the Original U-5, it merely stated the Respondent's allegations which facially were not defamatory under the circumstances. In the absence of such a finding of defamatory information in the Original U-5, the Panel through the Chairperson asked FINRA the rule(s) that required judicial intervention merely to minimally change the Original U-5 and the Claimant's CRD records so that it aligned with its unanimous award that the Claimant's termination was at-will under New York law and not "for cause". In customer cases Rule 2080 is clear, but there is no such Rule mandating judicial intervention in industry cases, particularly when no customer dispute information is involved. FINRA Rules are clear that arbitration awards are not reviewable or subject to appeal, save under section 10 of the Federal Arbitration Act. FINRA Rule 13904 governs FINRA awards in an industry arbitration, but it does not mandate judicial intervention to render the arbitration award final nor to modify the CRD records of an associate member, with or without a finding of defamatory information. To so require would serve no purpose here, because a court would have to have a de novo hearing which would only happen upon a motion to vacate based on section 10 of the Federal Arbitration Act, and not to confirm the Panel's unanimous award. This needless extra step of judicial intervention to rubber stamp the Panel's unanimous decision would require this pro se Claimant to expend more time and money to do what the majority of the Panel want to do directly, as a matter of law.

Accordingly, the majority of the Panel holds that this Award is self-executing as of the effective date of this Award. No customer complaints were received against the Claimant regarding the allegations set forth in the Original U-5. The modification to the Original U-5 as required by our Award is minimal and reflects the unanimous holding of the Panel. FINRA has not provided the Panel with a Rule mandating court confirmation of an arbitral award in an industry arbitration to modify the Claimant's CRD records, with or without a finding of defamatory information in the Original U-5. There is no Rule, and procedures or training manuals in the absence of a Rule do not override the decision of the arbitration Panel. It could be argued that leaving the Original U-5 unchanged could be defamatory given the Panel's decision that his termination was only "at-will" and not "for cause" as the Original U5 suggests.

Nonetheless, with deference to FINRA and to the minority point of view, a majority of the Panel will permit deferral of the effective date of this Award for thirty (30) calendar days from its execution by the Panel (the "Effective Date") to permit the parties to:

a. Jointly stipulate that this Award is final and self-executing without court confirmation. Such stipulation shall be signed by the Claimant and Respondent Morgan Stanley and filed with FINRA and the Panel; or
b. Either party may request confirmation of this Award by the U.S. Federal District Court of competent jurisdiction, but no such request for confirmation shall make the Award reviewable or appealable by such Court, as provided in FINRA Rule 13904(b). Any party requesting confirmation of this Award by the U.S. Federal District Court of competent jurisdiction, shall pay all costs and the attorney's fees and expenses of the party not so moving. Neither party may request FINRA to so move on his or its behalf, and the Panel is directing FINRA not to so move;
c. If on the thirtieth (30th) calendar date from the execution of this Award by the Panel there has neither been a joint stipulation by the parties pursuant to clause (a) above, or a legal action by either party to request confirmation of this Award under clause (b) above, this Award will be final and in full force and effect as of that day, or the next business thereafter, if the thirtieth (30th) day was not a business day in New York City, New York, as if confirmed by a U.S. Federal District Court of competent jurisdiction ("Effective Date").
d. Nothing in clauses (a), (b), or (c) of this paragraph 5, shall abridge either party's rights to move for vacatur of this Award pursuant to its rights under the Federal Arbitration Act, 9 U.S.C. § 10. The Panel unanimously believes no such cause of action is warranted.

authority for FINRA's RAD's assertion has never been disclosed and is contradicted by its automatic acceptance without court confirmation of a CRD change merely upon a Panel finding a statement in the U5 as defamatory in nature. Paragraph 5, left court confirmation up to the parties, as it is they who are paying for the arbitration and on whose behalf FINRA and the Panel are working. It also recognized the Claimant's pro se status, by trying to reduce costs.

At one point the then current majority thought we had FINRA's agreement to serve the Award with paragraph 5 and Mr. Brill's dissent, only with court confirmation as the party(ies) agreed and without FINRA requiring or independently exercising a court confirmation right. The case administrator so stated in writing. As Chairperson in accordance with the draft award presented I was to sign on behalf of all the Panel members, with Mr. Brill dissenting in part. I had the case administrator confirm to me in writing that Ms. Rutty agreed to sign the award as presented to me with paragraph 5 and Mr. Brill's dissent, and he did so in writing. I suggested to the case administrator that Mr. Brill's dissent might be moot given FINRA's decision and asked him to inquire if Mr. Brill would drop his dissent. He did so. Mr. Brill then learned from the case administrator that FINRA was going to require court confirmation that contradicted the award that I was to sign on behalf of the Panel. He subsequently confirmed to me in writing that FINRA, in his opinion, had no intention of following the terms of the executed award and would require court confirmation contrary to it. He had advised the case administrator he would not sign on this basis, and subsequently advised me in writing that he thought what FINRA was trying to do, through the case administrator, was an "abomination". Subsequently the case administrator sent an email to the Panel with the same award, but with the email now highlighting that FINRA would be requiring court confirmation. This put the Panel back to square one. I worked with this case administrator before, and never had such a problem. I know he has asked FINRA "management" before acting on other matters in connection with this matter, but he has not revealed if anyone, but he orchestrated this ethically corrupt attempt to have me sign based on false pretense.

The majority recognizes that the minority viewpoint expressed in the following dissent, does not accept the options afforded by the majority in (a)-(d) above. The majority of the Panel will permit it nonetheless, at the election of the party(ies). Alternatively, the majority would permit the parties to mutually agree in writing to FINRA, to waive options (a)-(d), and by such action the majority of the Panel hereby directs FINRA that the Award, as set forth in the above paragraphs 1-4, are final without judicial confirmation or intervention and that the Claimant's U-5 and CRD records are to be expunged and modified as provided in this Award.

DISSENTING FROM THE MAJORITY AWARD EXCEPT AS SET FORTH IN PARAGRAPHS 1-4 ABOVE ON WHICH THE PANEL IS UNANIMOUS.

Dissenting. Arbitrator Brill:

Arbitrator Brill does not believe the Award should ultimately be self-executing, if as he understands it, FINRA has an internal requirement that confirmation in court is required before Claimant's CRD records can be reformed. Arbitrator Brill puts forth no opinion on whether such internal requirement would be justified, consistent with other applicable statutes and rules, or a wise policy. However, he believes that putting constraints on being able to issue an Award is not the proper mechanism to compel FINRA to change it procedures. Such measures can be made by the Majority informally or judicially, if it so chooses. However, the Award should be able to be, and should be, issued without FINRA having to change its practice requiring confirmation as a condition precedent to the Award be able to be issued.

Request of the Court

I request that the court dismiss as a matter of law FINRA's requirement for court confirmation of arbitral decisions and awards in Industry Dispute Arbitrations which are not subject to Rule 13805 or Rule 13904 (b), and to do so specifically in this case, as a matter of fact and law. In so doing, the court should require FINRA, including FINRA RAD, to immediately comply with the terms of paragraphs 1-4 of the presently termed "Provisional Award" and to have that term revised to be Award in the final award. Even if the court confirms the Panel's unanimous ruling or makes other findings, it is my request the FINRA be charged as set forth in the next paragraph.

In recognition of the Claimant's pro se status, it is my additional request that FINRA be charged with all attorneys' fees and expenses, court costs and other related expenses for both parties, or either party, as the case may be, and of those of any other persons, if any, compelled by the court to appear or give testimony, for FINRA's actions in connection with this dispute as set forth above. As the court deems appropriate it should also charge FINRA with a penalty for any action it deems ethically improper or otherwise egregious in conduct.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

FINRA Office of Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing Fee	=$ 1,425.00

**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(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Morgan Stanley Smith Barney LLC is assessed the following:

Member Surcharge	=$ 1,700.00
Member Process Fee	=$ 3,250.00

Postponement Fees

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

May 8-12, 2017, postponement by parties	=$ 1,125.00
September 11-15, 2017, postponement by Claimant	=$ 1,125.00
Total Postponement Fees	=$ 2,250.00

The Panel has assessed $1,125.00 of the adjournment fees to Claimant.
The Panel has assessed $1,125.00 of the adjournment fees to Morgan Stanley Smith Barney.

Discovery-Related Motion Fee
Fees apply for each decision rendered on a discovery-related motion.

Three (3) decisions on discovery-related motions on the papers with one (1) arbitrator @ $200.00/decision	=$ 600.00
One (1) decision on a discovery-related motion on the papers with three (3) arbitrators @ $600.00 /decision	=$ 600.00
Claimant submitted two (2) discovery-related motions	
Respondents submitted two (2) discovery-related motions	
Total Discovery-Related Motion Fees	=$ 1,200.00

The Panel has assessed $800.00 of the discovery-related motion fees to Claimant.
The Panel has assessed $400.00 of the discovery-related motion fees to Morgan Stanley Smith Barney, LLC.

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 arbitrators, including a pre-hearing conference with the arbitrators that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single arbitrator @ $450.00/session			=$ 450.00
Pre-hearing conference:	November 21, 2016	1 session	
One (1) pre-hearing session with the Panel @ $1,125.00/session			=$ 1,125.00
Pre-hearing conference:	June 29, 2016	1 session	
Twelve (12) hearing sessions @ $1,125.00/session			=$ 13,500.00
Hearing Dates:	February 16, 2018	2 sessions	
	February 20, 2018	2 sessions	
	February 21, 2018	2 sessions	
	February 22, 2018	2 sessions	
	February 23, 2018	2 sessions	
	March 27, 2018	2 sessions	
Total Hearing Session Fees			=$15,075 .00

The Panel has assessed $7,537.50 of the hearing session fees to Claimant.
The Panel has assessed $7,537.50 of the hearing session fees to Morgan Stanley Smith Barney, LLC.

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

ARBITRATION PANEL

Brooks White	-	Public Arbitrator, Presiding Chairperson
Steven J. Brill	-	Public Arbitrator
Sophia Annmarie Rutty	-	Non-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.

Concurring Arbitrators' Signatures

Steven J. Brill
Public Arbitrator

8/8/18
Signature Date

Sophia Annmarie Rutty
Non-Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

Brooks White
Public Arbitrator, Presiding Chairperson

Signature Date

August 10, 2018
Date of Service (For FINRA Office of Dispute Resolution office use only)

ARBITRATION PANEL

Brooks White	-	Public Arbitrator, Presiding Chairperson
Steven J. Brill	-	Public Arbitrator
Sophia Annmarie Rutty	-	Non-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.

Concurring Arbitrators' Signatures

Steven J. Brill
Public Arbitrator — Signature Date

Sophia Annmarie Rutty
Non-Public Arbitrator — Signature Date 8/7/2018

Dissenting Arbitrator's Signature

Brooks White
Public Arbitrator, Presiding Chairperson — Signature Date

August 10, 2018

Date of Service (For FINRA Office of Dispute Resolution office use only)

ARBITRATION PANEL

Brooks White	-	Public Arbitrator, Presiding Chairperson
Steven J. Brill	-	Public Arbitrator
Sophia Annmarie Rutty	-	Non-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.

Concurring Arbitrators' Signatures

Steven J. Brill
Public Arbitrator — Signature Date

Sophia Annmarie Rutty
Non-Public Arbitrator — Signature Date

Dissenting Arbitrator's Signature *

Brooks White
Public Arbitrator, Presiding Chairperson — August 9, 2018 Signature Date

* FINRA and the majority refused to include as paragraph 5 to the Award, FINRA's standard wording requiring court confirmation of the Award as both are mandatory and to which I have dissented. Without notice in the Award to the court or the parties that requirement is procedurally defective.

August 10, 2018
Date of Service (For FINRA Office of Dispute Resolution office use only)