

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Peter Z. Sivere (Claimant) v. JP Morgan Securities, Inc. (Respondent)

Case Number: 05-06587

Hearing Site: New York, New York

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Nature of the Dispute: Associated Person vs. Member.

**REPRESENTATION OF PARTIES**

Claimant Peter Z. Sivere ("Claimant"): Edward H. Glenn, Jr., Esq., Zamansky & Associates, LLC., New York, NY

Respondent JP Morgan Securities, Inc. ("Respondent"): Jill L. Rosenberg, Esq., Orrick Herrington & Sutcliffe, LLP, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: December 23, 2005.

Claimant signed the Uniform Submission Agreement: December 20, 2005.

Statement of Answer filed by Respondent on or about: December 23, 2005.

Respondent signed the Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: false and defamatory Form U-5.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim.

**RELIEF REQUESTED**

Claimant requested an Order granting expungement of the Amended Form U-5 language about his reason for termination, and issuing alternate language that reflects the facts surrounding his termination as adduced at a hearing.

Respondent requests that the Statement of Claim be dismissed and that Claimant be denied the relief sought.

**OTHER ISSUES CONSIDERED AND DECIDED**

By Stipulation dated December 20, 2005 ("Stipulation"), the parties stipulated and agreed through their designated counsel as follows:

1. The parties agree to waive the provisions of Rule 10308 of the NASD Code of Arbitration Procedure ("Code") (Selection of Arbitrators) as the parties have jointly designated Mark A. Buckstein as the sole arbitrator to hear this matter.
2. The parties agree that the time limitations for submission of an Answer, Rule 10314(b) of the Code, shall not apply as the Statement of Claim and Answer were filed simultaneously.
3. The parties agree that no further discovery will be permitted.
4. The parties agree that a telephonic arbitration will be conducted before Mark A. Buckstein on or before December 30, 2005.
5. The parties understand and agreed that the following fees will be charged by NASD: a non-refundable filing fee (\$500.00) payable by Claimant; member surcharge (\$1,500.00) payable by Respondent; pre-hearing process fee (\$750.00) payable by Respondent; and hearing process fee (\$2,200.00) payable by Respondent. However, (in agreement with NASD Dispute Resolution) there will be no hearing deposit required or forum fees assessed against either party as the Arbitrator will not be receiving an honorarium from NASD.

**AWARD**

After considering the pleadings, the Stipulation, the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Arbitrator orders Respondent J.P. Morgan Securities Inc. (CRD 18718) to re-submit the Registration Comment Request Form filed with CRD on or about

December 20, 2004, which was posted to Claimant Sivere's CRD record (CRD 2768651) on January 5, 2005. The Registration Comment added to Claimant's CRD record states: "FIRM CRD#18718, J.P. MORGAN SECURITIES INC. FILED TO AMEND U-5 FILED ON 10/20/04. REASON FOR TERMINATION CHANGED TO: DISCHARGED. TERMINATION COMMENT: ACCESSING EMAILS WITHOUT AUTHORIZATION. EXPLANATION: DUE TO AN ADMINISTRATIVE ERROR, THE ORIGINAL U5 WAS FILED WITH THE WRONG REASON FOR TERMINATION." This registration comment should be deleted from Claimant's CRD record in its entirety.

Respondent should add a note or cover letter to the previously submitted Registration Comment Request Form advising that the registration comment was previously submitted as a result of an administrative error and that it should be deleted from Claimant's CRD record pursuant to the Award issued in NASD Arbitration Case No. 05-06587. Respondent should sign and date the updated Registration Comment Request Form and also request that CRD provide Respondent with written confirmation that the registration comment was, in fact, deleted from Claimant's CRD record pursuant to the Arbitration Award and Respondent's request.

2. The Arbitrator finds that the information contained on Registration Comment Request Form filed with CRD by Respondent on December 20, 2004 was not defamatory. The Registration Comment Request Form stated that Claimant's termination was "for accessing e-mails without authorization." Respondent must file the updated Registration Comment Request Form with CRD requesting that the previously filed Registration Comment be deleted from Claimant's CRD record within 30 days of the date of service of this award. Respondent must further provide Claimant with a copy of the letter to be sent to Respondent by CRD confirming that the Registration Comment was, in fact, deleted from Claimant's CRD record pursuant to the Arbitration Award and per Respondent's request within 30 days after receiving the confirmation letter from CRD.
3. The Arbitrator recommends that the Reason for Termination filed on the Form U-5 by Respondent J.P. Morgan Securities, Inc. with CRD on October 20, 2004 on behalf of Claimant Peter Z. Sivere remain as "Other." The Arbitrator also recommends the expungement of the Termination Explanation/Comment, "Mutual Consent." The Termination Explanation/Comment is to be replaced with the following language: "THE REASON FOR TERMINATION OF PETER SIVERE'S EMPLOYMENT WAS A DISAGREEMENT REGARDING THE SCOPE OF HIS AUTHORITY." The expungement recommendation is made with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Claimant Peter Z. Sivere must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. Any and all relief not specifically addressed herein is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$250.00
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#### **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, JP Morgan Securities, Inc. is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,200.00

### **Fee Summary**

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 250.00
<u>Total Fees</u>	= \$ 250.00
<u>Less payments</u>	= \$ 500.00
<u>Refund Due Claimant</u>	= \$ 250.00

2. Respondent JP Morgan Securities, Inc. is solely liable for:

<u>Member Fees</u>	= \$4,450.00
 <u>Total Fees</u>	 = \$4,450.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$4,450.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.
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**ARBITRATOR**

Mark A. Buckstein - Sole Public Arbitrator

**Arbitrator's Signature**

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 is which is my award.



Mark A. Buckstein  
Public Arbitrator, Presiding Chairperson

1/26/06

Signature Date

January 27, 2006

Date of Service (For NASD Dispute Resolution use only)