Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
Lee Siegal Henderson

vs.

Respondent
Morgan Stanley

Case Number: 19-00272

Hearing Site: New Orleans, Louisiana

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant Lee Siegal Henderson (“Claimant”): Tosh D. Grebenik, JD, FA
Expungement, LLC, Denver, Colorado.

For Respondent Morgan Stanley (“Respondent”): Nicholas Y. Lin, Esq., Morgan
Stanley, San Francisco, California.

CASE INFORMATION

Statement of Claim filed on or about: January 22, 2019.
Claimant signed the Submission Agreement: January 22, 2019.

Statement of Answer filed by Respondent on or about: March 21, 2019.
Respondent signed the Submission Agreement: March 21, 2019.

CASE SUMMARY

Claimant asserted a claim seeking expungement of a FINRA arbitration case
(“Underlying Arbitration”), occurrence number 1536197, from his Central Registration
Depository (“CRD”) records.

In the Statement of Answer, Respondent advised that it did not oppose Claimant’s
request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Arbitration from his CRD records, pursuant to a
   finding that the claim, allegation, or information is factually impossible and clearly
   erroneous pursuant to FINRA Rule 2080(b)(1)(A); that the registered person was
not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds pursuant to FINRA Rule 2080(b)(1)(B); and that the claim, allegation, or information is false, pursuant to FINRA Rule 2080(b)(1)(C); and

2. Compensatory damages in the amount of $1.00 from Respondent.

In the Statement of Answer, Respondent opposed Claimant’s request for $1.00 in compensatory damages.

At the hearing, Claimant withdrew his request for $1.00 in damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

This case was administered under the Special Proceeding option for simplified cases.

On July 15, 2018, Claimant provided notice that the Statement of Claim and notice of the expungement hearing had been sent to the customers in the Underlying Arbitration, “Mr. and Mrs. A” and “Mr. and Mrs. F” (collectively referred to as the “Customers”). The notice advised that the certified package was delivered to Mr. and Mrs. F but that the package to Mr. and Mrs. A was “in Transit to Next Facility.”

On the same date, Claimant’s counsel provided a copy of an email sent to the Customers’ counsel in the Underlying Arbitration with a copy of the Statement of Claim and giving notice of the expungement hearing.

On September 4, 2019, Claimant filed an Affidavit regarding Service of Process, advising that the certified package to Mr. and Mrs. A still showed as “in Transit to Next Facility” and that he sent an uncertified copy as well. In the letter, Claimant’s counsel advised regarding the certified package, that pursuant to USPS policy, “if the package had been rejected or unsuccessfully delivered for any reason, after 5-7 days after the final delivery attempt is made, then the package would have started to be re-routed back to the sender and the tracking information would have reflected this.”

The Arbitrator conducted a recorded telephonic hearing on September 3, 2019 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 did not participate in the expungement hearing. The Arbitrator found that the Customers had notice of the hearing.

The Arbitrator reviewed Claimant’s BrokerCheck® Report.

The Arbitrator also reviewed the settlement documents, considered the amount of payments made to any party, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on the
Customers not opposing the request for expungement. The Arbitrator also noted that Claimant did not contribute to the settlement amount.

The Arbitrator noted that Claimant did not previously file a claim requesting expungement of the same disclosure in the CRD.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: all documents contained in Arbitrators’ Exhibit 1, including Submission Agreements, Statement of Claim and exhibits, Statement of Non-Opposition of Respondent, Notice to Underlying Claimants, Notice to Counsel to Customers, Verification of Delivery of Notice to Customers and the settlement agreements in the Underlying Arbitration.

The parties present at the hearing have agreed that a handwritten, signed Award may be entered.

**AWARD**

After considering the pleadings, 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 recommends the expungement of the Underlying Arbitration, occurrence number 1536197, from registration records maintained by CRD, for Claimant Lee Siegel Henderson (CRD# 4739000), with the understanding that, pursuant to Notice to Members 04-16, Claimant Lee Siegel Henderson 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.

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

Based on the evidence presented for Mr. and Mrs. A’s accounts, Claimant was not employed by Morgan Stanley when the accounts were opened and Claimant’s involvement was essentially marketing. Claimant had no role in making any recommendations or transactions in Mr. and Mrs. A’s accounts.
With respect to Mr. and Mrs. F’s accounts, Claimant was not involved in opening the accounts or making any recommendations or transactions in Mr. and Mrs. F’s accounts.

In summary, Claimant’s role in the Customers’ accounts was solely marketing – Claimant’s contact with the Customers was only to seek assistance in filling seats at seminars with the broker (“Mr. E”). The Customers were clients of Mr. E and he managed said accounts.

**FEES**

Pursuant to the Code, the following fees are assessed:

**Filing Fees**
FINRA Office of Dispute Resolution assessed a filing fee* for each claim:
- Initial Claim Filing Fee = $50.00

*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 = $150.00

**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(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:
- One (1) pre-hearing session with a single arbitrator @ $50.00/session = $50.00
  Pre-hearing conference: May 23, 2019 1 session
- One (1) hearing session on expungement request @ $50.00/session = $50.00
  Hearing Date: September 3, 2019 1 session

Total Hearing Session Fees = $100.00

The Arbitrator has assessed $100.00 of the hearing session fees to Claimant.

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

Simeon B. Reimonenq, Jr. - 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

[Signature]

Simeon B. Reimonenq, Jr.
Sole Public Arbitrator

10/3/2019
Signature Date

October 3, 2019
Date of Service (For FINRA Office of Dispute Resolution office use only)