

**FINRA Dispute Resolution**  
**Midwest Processing Center**  
**55 West Monroe Street**  
**Suite 2600**  
**Chicago, IL 60603**  
**E-mail: midwestprocessingcenter@finra.org**  
**Phone: 312-899-4440**  
**Fax: 312-236-9239**



Number of Pages including the Cover Sheet: \_\_\_\_\_

Date: 12/30/2013

Case Number: 12-03180

Case Name: Vincent William Romano vs. Morgan Stanley Smith Barney

To: Thomas F. Hurka Phone: 312-324-1000 Fax: 312-324-1001  
Nicholas P. Iavarone Phone: 312-637-9466 Fax: 800-417-0580

From: *ALAN BLOCK* *312-251-1147*  
Alma Toplic  
Case Administrator

Message:

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This facsimile transmission is intended only for the addressee(s) shown above. It may contain information that is privileged, confidential, or otherwise protected from disclosure. Any review, dissemination or use of this transmission or its contents by persons other than addressee is strictly prohibited. If you have received this transmission in error, please notify us immediately by telephone at the above number.



December 30, 2013

Nicholas P. Iavarone, Esq.  
The Iavarone Firm  
33 N. LaSalle  
1400  
Chicago, IL 60602

Subject: FINRA Dispute Resolution Arbitration Number 12-03180  
Vincent William Romano vs. Morgan Stanley Smith Barney

Dear Mr. Iavarone:

Enclosed please find the decision reached by the arbitrator(s) in the above-referenced matter.

#### Responsibility to Pay Monetary Award

FINRA rules provide that all monetary awards shall be paid within 30 days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction. An award shall bear interest from the date of the award:

- If not paid within 30 days of receipt;
- If the award is the subject of a motion to vacate which is denied; or
- As specified by the panel in the award.

Interest shall be assessed at the legal rate, if any, then prevailing in the state where the award was rendered, or at a rate set by the arbitrator(s).

#### Expedited Suspension Proceedings for Non-Payment of Awards

Article VI, Section 3 of the FINRA By-Laws and FINRA Rule 9554 permit FINRA to suspend or cancel the registration of any firm or associated person that fails to comply with a FINRA arbitration award.

Firms are required to notify FINRA in writing within 30 days of receipt of an award that they or their associated persons have paid or otherwise complied with the award, or to identify a valid basis for non-payment. We also request that prevailing claimants notify us in writing when their awards have not been paid within 30 days of receipt of the award.

Written notification concerning award compliance or lack thereof should be directed to:

Investor protection. Market integrity.

Dispute Resolution  
Midwest Regional Office

55 West Monroe Street  
Suite 2600  
Chicago, IL  
60603-5104

t 312 899 4440  
f 312 236 9239  
www.finra.org

David Carey  
FINRA Dispute Resolution  
One Liberty Plaza, 165 Broadway, 52nd Floor  
New York, NY 10006  
212-858-4333 (tel) | 301-527-4706 (fax) | david.carey@finra.org (email)

#### Right to File Motion to Vacate Award

FINRA rules provide that, unless the applicable law directs otherwise, all awards rendered are final and are not subject to review or appeal. Accordingly, FINRA has no authority to vacate this award. Any party wishing to challenge the award must make a motion to vacate the award in a federal or state court of appropriate jurisdiction pursuant to the Federal Arbitration Act, 9 U.S.C. § 10, or applicable state statute. There are limited grounds for vacating an arbitration award, and a party must bring a motion to vacate within the time period specified by the applicable statute. If you are not represented by counsel and wish to challenge the award, we urge you to seek legal advice regarding any rights or remedies available to you.

#### Forum Fees

You will receive under separate cover an invoice that reflects the fees assessed and any outstanding balance or refund due. Fees are due and payable to FINRA Dispute Resolution upon receipt of the invoice and should be sent to the address specified on the invoice. Any applicable refunds will also be sent under separate cover approximately 45 days after the case closes. All questions regarding payment of fees and refunds should be directed to FINRA Finance at (240) 386-5910.

#### Arbitrator Evaluation

FINRA encourages parties to complete Arbitrator Evaluation Forms at the conclusion of every case. We will utilize your comments in our ongoing efforts to evaluate and improve the services our forum provides. You can complete the Arbitrator Evaluation Form on our website at [www.finra.org/arbevaluation](http://www.finra.org/arbevaluation).

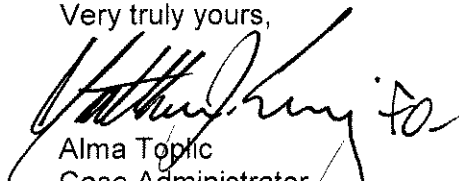
#### Party Submissions to Arbitrators After a Case Closes

FINRA rules provide that parties may not submit documents to arbitrators in cases that have been closed except under the following limited circumstances: 1) as ordered by a court; 2) at the request of any party within 10 days of service of an award, for typographical or computational errors, or mistakes in the description of any person or property referred to in the award; or 3) if all parties agree and submit documents within 10 days of service of an award. Any documents, if submitted, must be sent through FINRA.

Questions Concerning Award

Should you have any questions, please contact me at the phone number or email address provided below. Parties should not directly contact arbitrators under any circumstances.

Very truly yours,



Alma Topic  
Case Administrator  
Phone: 312-899-4440  
Fax: 301-527-4857  
Alma.Topic@finra.org

AS1:mrc:LC09A  
idr: 06/27/2013  
Enclosure

RECIPIENTS:

Thomas F. Hurka, Esq., Morgan Stanley  
Morgan Lewis & Bockius,LLP, 77 West Wacker Drive, Chicago, IL 60601

Nicholas P. Iavarone, Esq., Vincent William Romano  
The Iavarone Firm, 33 N. LaSalle, 1400, Chicago, IL 60602

**AWARD**  
**FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of Claimant

Vincent W. Romano

vs.

Case Number: 12-03180  
Hearing Site: Chicago, Illinois

Name of Respondent

Morgan Stanley Smith Barney, LLC

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**NATURE OF THE DISPUTE**

Associated Person vs. Member

**REPRESENTATION OF PARTIES**

Vincent W. Romano ("Claimant" or "Romano") was represented by Nicholas P. Iavarone, Esq., The Iavarone Firm, Chicago, Illinois and Alan F. Block, Esq., Block & Landsman, Chicago, Illinois.

Morgan Stanley Smith Barney, LLC ("Respondent" or "MSSB") was represented by Thomas F. Hurka, Esq. and Jeffrey J. Knoch, Esq., Morgan, Lewis & Bockius, LLP, Chicago, Illinois.

**CASE INFORMATION**

The Statement of Claim was filed on or about September 4, 2012. The Submission Agreement of Claimant was signed on or about August 21, 2012.

The Statement of Answer was filed by Respondent on or about November 15, 2012. The Submission Agreement of Respondent was signed on or about November 14, 2012.

**CASE SUMMARY**

Claimant asserted the following cause of action: libel or slander on Form U5. Claimant alleged that Respondent terminated him to weaken his candidacy and improperly marked his U5 because Romano ran as the Republican Party candidate for representative in Illinois District No. 16. Romano alleged that MSSB feared loss of business with the City of Chicago and State of Illinois because MSSB has a relationship with House Speaker, Michael Madigan, and Romano was running on a reform platform that could upset Michael

FINRA Dispute Resolution  
 Arbitration No. 12-03180  
 Award Page 2 of 6

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Madigan's political power in the Illinois House. Claimant also alleged that Respondent failed to follow its own procedures regarding running for political office and fabricated a reason to terminate Romano.

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

### RELIEF REQUESTED

In the Statement of Claim, Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$2,000,000.00
Punitive/Exemplary Damages	\$6,000,000.00
Other Monetary Relief	Unspecified

At the close of the hearing, Claimant requested:

Actual/Compensatory Damages	\$3,000,000.00
Punitive/Exemplary Damages	\$6,000,000.00
Other Monetary Relief	Unspecified

Respondent requested that the claims asserted against it be dismissed in their entirety and that it be awarded its costs and attorneys' fees.

### OTHER ISSUES CONSIDERED & DECIDED

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

On or about August 21, 2013, Respondent filed a Motion for Discovery and Dismissal with Prejudice. On or about August 27, 2013, Claimant filed a Response to Respondent's Motion. On or about August 29, 2013, Respondent filed a Reply in Support of Its Motion. In its Order dated September 12, 2013, the Panel entered and continued Respondent's Motion to December 9, 2013.

On or about November 22, 2013, Claimant filed a Motion for an In Camera Inspection of Documents Alleged by Respondent to be Privileged. On or about November 26, 2013, Respondent filed a Response to Claimant's Motion. On or about November 29, 2013, Claimant filed a Reply in Support of His Motion. On December 4, 2013, the Panel deferred Claimant's Motion until the final hearing in this matter. The Panel granted Claimant's Motion at the hearing.

FINRA Dispute Resolution  
Arbitration No. 12-03180  
Award Page 3 of 6

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On or about November 27, 2013, Claimant filed a Motion for Order Directing Appearance of Rick Romano. At the hearing, the Panel granted Claimant's Motion.

The parties 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 the evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondent, Morgan Stanley Smith Barney, LLC, is liable for and shall pay to Claimant, Vincent W. Romano, the sum of \$475,000.00 in compensatory damages;
- 2.) Respondent, Morgan Stanley Smith Barney, LLC, is liable for and shall pay to Claimant, Vincent W. Romano, the sum of \$50,000.00 in punitive damages pursuant to Kipple v. Wells Fargo, 10-02871; Olson v. World Equity Group, 10-01803; Perales v. Chase Investment Services, 09-05959; and Leahy v. Charles Schwab, 09-00260;
- 3.) The Panel recommends the expungement of the Termination Explanation from Section 3 of Claimant Vincent W. Romano's (CRD # 2812237) Form U5 filed by Morgan Stanley on June 5, 2012, and maintained by the Central Registration Depository ("CRD"). The Reason for Termination shall remain "Discharged." The Panel further recommends the expungement of the response to Question # 3 in Part I of the Internal Review Disclosure Reporting Page ("DRP") as well as the expungement of the response to Question # 4 in the Termination DRP from Claimant Vincent W. Romano's Form U5 filed by Morgan Stanley on June 5, 2012, and maintained by the CRD.

The Termination Explanation and the responses both to Question # 3 in Part I of the Internal Review DRP and to Question # 4 in the Termination DRP shall be deleted and replaced with the following: "Concerns about the Financial Advisor running for elected political office, despite not having received prior firm approval for same, due to a misunderstanding between the firm and the Financial Advisor. The terminated employee violated no investment-related statutes, regulations or rules."

The above recommendations are based on the defamatory nature of the information, and the Panel recommends that these changes be made to any subsequent amendments maintained by the CRD.

FINRA Dispute Resolution  
 Arbitration No. 12-03180  
 Award Page 4 of 6

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Claimant's registration records are not automatically amended to include the changes indicated above. Claimant Vincent W. Romano must forward a copy of this Award to FINRA's Registration and Disclosure Department for the amendments to be incorporated into his registration records.

- 4.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 5.) Any relief not specifically enumerated, including attorneys' fees, is hereby denied with prejudice.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

FINRA Dispute Resolution will retain the non-refundable filing fee\* for each claim:

Initial Claim filing fee = \$ 1,800.00

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

Member surcharge	= \$ 3,350.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,500.00

#### **Adjournment Fees**

Adjournments granted during these proceedings:

<u>October 7-11, 2013, adjournment requested jointly by the parties</u>	<u>= \$ 1,200.00</u>
Total Adjournment Fees	= \$ 1,200.00

The Panel has assessed \$600.00 of the adjournment fees to Vincent W. Romano.



FINRA Dispute Resolution  
 Arbitration No. 12-03180  
 Award Page 5 of 6

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The Panel has assessed \$600.00 of the adjournment fees to Morgan Stanley Smith Barney, LLC.

### **Discovery-Related Motion Fees**

Fees apply for each decision rendered on a discovery-related motion.

One (1) Decision on discovery-related motion on the papers with one (1) arbitrator @ \$200.00	= \$	200.00
Respondent submitted one (1) discovery-related motion		
One (1) Decision on discovery-related motion on the papers with three (3) arbitrators @ \$600.00	= \$	600.00
Respondent submitted one (1) discovery-related motion		
<b>Total Discovery-Related Motion Fees</b>	<b>= \$</b>	<b>800.00</b>

The Panel has assessed \$800.00 of the discovery-related motion fees to Vincent W. Romano.

### **Hearing Session Fees and Assessments**

The Panel has assessed hearing session fees for each hearing 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 Panel x \$1,200.00	= \$	1,200.00
Pre-hearing conference: January 24, 2013 1 session		
Seven (7) Hearing sessions x \$1,200.00	= \$	8,400.00
Hearing Dates: December 9, 2013 2 sessions		
December 10, 2013 2 sessions		
December 11, 2013 2 sessions		
December 16, 2013 1 session		
<b>Total Hearing Session Fees</b>	<b>= \$</b>	<b>9,600.00</b>

The Panel has assessed \$4,800.00 of the hearing session fees to Vincent W. Romano.

The Panel has assessed \$4,800.00 of the hearing session fees to Morgan Stanley Smith Barney, LLC.

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

FINRA Dispute Resolution  
Arbitration No. 12-03180  
Award Page 6 of 6

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**ARBITRATION PANEL**

Michael M. Matek - Public Arbitrator, Presiding Chair  
Michael I. White, - Public Arbitrator  
Loren H. Newman - 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:

/s/ Michael M. Matek  
Michael M. Matek  
Public Arbitrator, Presiding Chair

December 30, 2013  
Signature Date

/s/ Michael I. White  
Michael I. White  
Public Arbitrator

December 30, 2013  
Signature Date

/s/ Loren H. Newman  
Loren H. Newman  
Non-Public Arbitrator

December 30, 2013  
Signature Date

December 30, 2013  
Date of Service (For FINRA office use only)

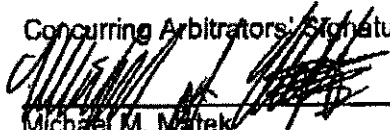
FINRA Dispute Resolution  
Arbitration No. 12-03180  
Award Page 6 of 6

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\_\_\_\_\_  
Michael M. Matek  
Public Arbitrator, Presiding Chair

Dec. 30, 2013  
Signature Date

\_\_\_\_\_  
Michael I. White  
Public Arbitrator

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

\_\_\_\_\_  
Loren H. Newman  
Non-Public Arbitrator

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

\_\_\_\_\_  
Date of Service (For FINRA office use only)

FINRA Dispute Resolution  
Arbitration No. 12-03180  
Award Page 6 of 6

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Michael I. White, - Public Arbitrator  
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\_\_\_\_\_  
Michael M. Matek  
Public Arbitrator, Presiding Chair

*Michael White*  
\_\_\_\_\_  
Michael I. White  
Public Arbitrator

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

*DECEMBER 30 2013*  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Loren H. Newman  
Non-Public Arbitrator

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

\_\_\_\_\_  
Date of Service (For FINRA office use only)

FINRA Dispute Resolution  
Arbitration No. 12-03180  
Award Page 6 of 6

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Michael I. White, - Public Arbitrator  
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Michael M. Matek  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
Michael I. White  
Public Arbitrator

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

  
\_\_\_\_\_  
Loren H. Newman  
Non-Public Arbitrator

\_\_\_\_\_  
12/30/13  
Signature Date

\_\_\_\_\_  
Date of Service (For FINRA office use only)