

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Nancy J Tucker

Case Number: 18-01020

vs.

Respondent
Morgan Stanley

Hearing Site: Philadelphia, Pennsylvania

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: Customer vs. Member

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimant Nancy J Tucker: Nicholas J. Guiliano, Esq., Guiliano Law Firm, Philadelphia, Pennsylvania.

For Respondent Morgan Stanley: Abigail Elrod, Esq. and Amanda Parisi, Esq., Morgan Stanley, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: March 15, 2018.
Nancy J Tucker signed the Submission Agreement: March 15, 2018.

Statement of Answer filed by Respondent on or about: June 8, 2018.
Morgan Stanley signed the Submission Agreement: June 8, 2018.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: violation of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934; sale of unsuitable Investments; breach of fiduciary duty; negligent failure to supervise; and common law fraud. The causes of action relate to investments in Cyclacel Pharmaceuticals Inc, Quick Med Tech, Inc. and Royale Energy Inc.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested compensatory damages of \$1,140,000.00; lost income under the “well managed portfolio” theory of recovery; punitive damages; interest at the rate of 6% per annum; attorneys’ fees and costs; and any other relief that is just, fair and equitable.

In the Statement of Answer, Respondent requested that the Arbitrators dismiss all claims in the Statement of Claim in their entirety; and award it costs in defense of this proceeding.

At the hearing, Claimant requested damages in the amount of \$1,038,777.00; interest in the amount of \$209,054.00; and attorneys’ fees and costs in the amount of \$138,367.00.

OTHER ISSUES CONSIDERED AND DECIDED

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

On September 27, 2019, Claimant filed a Motion for Sanctions. On October 7, 2019, Respondent filed an Opposition to Claimant’s Motion for Sanctions. By Order dated November 1, 2019, the Panel denied Claimant’s Motion for Sanctions.

On August 5, 2021, Claimant filed a Motion for Zoom Hearing. On August 13, 2021, Respondent filed an Opposition to Claimant’s Motion for Zoom Hearing. On August 13, 2021, Claimant filed a Reply in Support of the Motion for Zoom Hearing. By order dated August 23, 2021, the Panel denied Claimant’s Motion for Zoom Hearing. Therefore, the evidentiary proceeded in-person.

The Award in this matter may be executed in counterpart copies.

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:

1. Respondent is liable for and shall pay to Claimant the sum of \$100,000.00 in compensatory damages plus interest at the rate of 5.75% per annum from February 1, 2018 until the date of this award.
2. Respondent is liable for and shall pay to Claimant post-award interest on the above-stated award, including the accrued interest, at the rate of 5.75% per annum from November 1, 2021 until the award is paid.
3. Respondent is liable for and shall pay to Claimant the sum of \$4,300.00 in costs.

4. Respondent is liable for and shall pay to Claimant \$600.00 to reimburse Claimant for the non-refundable portion of the filing fees previously paid to FINRA Dispute Resolution Services.
5. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and attorneys' fees, are denied.

FEES

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

Filing Fees

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

Initial Claim Filing Fee = \$ 2,000.00

**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, Respondent Morgan Stanley is assessed the following:

Member Surcharge = \$ 3,025.00
Member Process Fee = \$ 6,175.00

Discovery-Related Motion Fees

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

Two (2) decisions on discovery-related motions on the papers = \$ 400.00
with one (1) Arbitrator @ \$200.00/decision

Claimant submitted one (1) discovery-related motion
Respondent submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees = \$ 400.00

The Arbitrator has assessed the total discovery-related motion fees to Respondent.

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, which lasts four (4) hours or less. Fees associated with these proceedings are:

Four (4) pre-hearing sessions with the Panel @ \$1,400.00/session = \$ 5,600.00
Pre-Hearing Conferences: September 14, 2018 1 session
October 31, 2019 1 session
April 23, 2020 1 session
December 18, 2020 1 session

Nine (9) hearing sessions @ \$1,400.00/session			= \$ 12,600.00
Hearings:	September 27, 2021	1 session	
	September 28, 2021	2 sessions	
	September 29, 2021	2 sessions	
	September 30, 2021	2 sessions	
	October 1, 2021	2 sessions	

Total Hearing Session Fees			= \$ 18,200.00
----------------------------	--	--	----------------

The Panel has assessed the total hearing session fees to Respondent.

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

ARBITRATION PANEL

Gordon M. Wase	-	Public Arbitrator, Presiding Chairperson
Steven T. Stern	-	Public Arbitrator
Kerrie A. Campbell-Garrett	-	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

Gordon M. Wase

Gordon M. Wase
Public Arbitrator, Presiding Chairperson

10/05/2021

Signature Date

Steven T. Stern

Steven T. Stern
Public Arbitrator

10/05/2021

Signature Date

Kerrie A. Campbell-Garrett

Kerrie A. Campbell-Garrett
Public Arbitrator

10/06/2021

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.

October 06, 2021

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