

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Megan Hait

Case Number: 19-02005

vs.

Respondent
Morgan Stanley

Hearing Site: New York, New York

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 Megan Hait: Scott L. Silver, Esq., Silver Law Group, Coral Springs, Florida*.

For Respondent Morgan Stanley: Andrew E. Gelfand, Esq., Morgan Stanley, New York, New York.

*FINRA recorded the appearance of Claimant's counsel at the time of filing of the Statement of Claim. Counsel's representation of Claimant may have ended with the parties' settlement. Please see the Other Issues Considered and Decided section of this Award for information on whether Claimant's counsel appeared at the expungement hearing.

CASE INFORMATION

Statement of Claim filed on or about: July 19, 2019.

Megan Hait signed the Submission Agreement: July 19, 2019.

Statement of Answer filed by Respondent on or about: September 27, 2019.

Morgan Stanley signed the Submission Agreement: September 27, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty, negligence, negligent supervision, fraud, breach of contract, third party beneficiary breach

of contract, violation of Section 10(b) of the Securities Exchange Act and Rule 10b-5 promulgated thereunder by the Securities and Exchange Commission.

The causes of action relate to investments in Unit Investment Trusts (“UITs”), energy sector securities, and other securities.

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 damages between \$1,000,000.00 and \$5,000,000.00; punitive damages; interest; costs, and such other and further relief as deemed just and proper.

In the Statement of Answer, Respondent requested that the Statement of Claim be denied in its entirety; expungement of this matter from Unnamed Parties Michael Greenstone and John Araneo’s Central Registration Depository (“CRD”) registration records; and costs.

OTHER ISSUES CONSIDERED AND DECIDED

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

On November 6, 2020, Claimant filed a Notice of Settlement and Withdrawal of Claims with Prejudice. On November 6, 2020, Respondent requested that this matter remain open so that Unnamed Parties Michael Frank Greenstone and John Araneo may seek expungement. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On December 16, 2020, Respondent filed a Motion for Expungement on behalf of Unnamed Parties Michael Greenstone and John Araneo, to which Claimant filed a Statement in Opposition to expungement on March 4, 2021.

The Panel conducted a recorded, telephonic hearing on March 5, 2021, so the parties could present oral argument and evidence on Unnamed Parties Michael Greenstone and John Araneo’s request for expungement.

Claimant and counsel did not participate in the expungement hearing but opposed the request for expungement.

The Panel reviewed Unnamed Parties Michael Greenstone and John Araneo’s BrokerCheck® Reports. The Panel noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrences in the CRD.

The Panel also reviewed the settlement documentation, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Panel noted that the settlement was not conditioned on any party to the

settlement not opposing the request for expungement and that Unnamed Parties Michael Greenstone and John Araneo did not contribute to the settlement amount.

In recommending expungement, the Panel relied upon the following documentary or other evidence: the pleadings; the Motion for Expungement with exhibits; Claimant's Statement in Opposition; and Unnamed Parties Michael Greenstone and John Araneo BrokerCheck® Reports.

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. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2040715) from registration records maintained by the CRD for Unnamed Party Michael Frank Greenstone (CRD Number 709165) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party Michael Frank Greenstone 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 12805 of the Code of Arbitration Procedure ("Code"), the Panel has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and the claim, allegation, or information is false.

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

The gravamen of the claim made by Claimant is that her investments involved an unsuitable and high-risk strategy. The Panel finds that the Claimant sought an aggressive investment strategy and signed documents to that effect. The Claimant was in frequent contact with the registered representatives on her account and had a pattern of closely observing the account. Also, she received advice concerning her account from her accountant. The Claimant maintained a Portfolio Loan Account and desired monthly withdrawals from her account, both of which warranted the types of investments in the account. Given her investment objectives and the manner in which she utilized her account, the Panel finds the investments in her account were suitable, in fact they returned a significant amount over the life of the account. Accordingly, the Panel finds the claims are erroneous and false.

2. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2040835) from registration records maintained by the CRD for Unnamed Party John Battista Araneo (CRD Number 2874074) with the understanding

that, pursuant to Notice to Members 04-16, Unnamed Party John Battista Araneo 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 12805 of the Code of Arbitration Procedure (“Code”), the Panel has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and the claim, allegation, or information is false.

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

The gravamen of the claim made by Claimant is that her investments involved an unsuitable and high-risk strategy. The Panel finds that the Claimant sought an aggressive investment strategy and signed documents to that effect. The Claimant was in frequent contact with the registered representatives on her account and had a pattern of closely observing the account. Also, she received advice concerning her account from her accountant. The Claimant maintained a Portfolio Loan Account and desired monthly withdrawals from her account, both of which warranted the types of investments in the account. Given her investment objectives and the manner in which she utilized her account, the Panel finds the investments in her account were suitable, in fact they returned a significant amount over the life of the account. Accordingly, the Panel finds the claims are erroneous and false.

3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages 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 event 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

Late Pre-Hearing Cancellation Fees

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

October 27, 2020, cancellation requested by the parties. = \$ 300.00

Total Late Pre-Hearing Cancellation Fees = \$ 300.00

The Panel has assessed \$150.00 of the late pre-hearing cancellation fees to Claimant.

The Panel has assessed \$150.00 of the late pre-hearing cancellation 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:

One (1) pre-hearing session with the Panel @ \$1,400.00/session = \$ 1,400.00
Pre-Hearing Conference: November 21, 2020 1 session

One (1) hearing session on expungement request @ \$1,400.00/session = \$ 1,400.00
Hearing: March 5, 2021 1 session

Total Hearing Session Fees = \$ 2,800.00

The Panel has assessed \$700.00 of the hearing session fees to Claimant.

The Panel has assessed \$2,100.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Edward W. Morris, Jr.	-	Public Arbitrator, Presiding Chairperson
Shelley Teitelbaum	-	Public Arbitrator
Julian F. Santos	-	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

Edward W. Morris, Jr.

Edward W. Morris, Jr.
Public Arbitrator, Presiding Chairperson

03/12/2021

Signature Date

Shelley Teitelbaum

Shelley Teitelbaum
Public Arbitrator

03/13/2021

Signature Date

Julian F. Santos

Julian F. Santos
Public Arbitrator

03/12/2021

Signature Date

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March 15, 2021

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