

**Stipulated Award
FINRA Dispute Resolution Services**

In the Matter of the Arbitration Between:

Claimants

Morgan Stanley
MSSB FA Notes Holdings LLC
Morgan Stanley Smith Barney Financing LLC

Case Number: 19-02561

vs.

Respondent

Neal Ira Rutman

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: Member and Non-Members vs. Associated Person

REPRESENTATION OF PARTIES

For Claimants Morgan Stanley, Morgan Stanley Smith Barney FA Notes Holdings LLC, and Morgan Stanley Smith Barney Financing LLC: Douglas W. Hyman, Esq., Lewitas Hyman PC, Chicago, Illinois.

For Respondent Neal Ira Rutman: Arthur C. Koski, Esq., Law Offices of Arthur C. Koski, P.A., Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed on or about: August 27, 2019.

Amended Statement of Claim filed on or about: May 24, 2021.

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

Morgan Stanley Smith Barney FA Notes Holdings LLC signed the Submission Agreement: August 27, 2019.

Morgan Stanley Smith Barney Financing LLC signed the Submission Agreement: May 27, 2021.

Statement of Answer and Counterclaim filed by Respondent on or about: October 23, 2019.

Answer to Amended Statement of Claim filed by Respondent on or about: June 10, 2021.

Neal Ira Rutman signed the Submission Agreement: October 24, 2019.

CASE SUMMARY

In the Statement of Claim and Amended Statement of Claim, Claimant asserted the following cause of action: breach of promissory notes.

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

In the Counterclaim, Respondent asserted the following causes of action: breach of express and implied contract promises; and breach of standards of commercial honor and equitable principles of trade.

RELIEF REQUESTED

In the Statement of Claim, Claimants Morgan Stanley and Morgan Stanley Smith Barney FA Notes Holdings LLC requested compensatory damages in the amount of \$337,463.25, plus the total interest due as of Respondent's termination date in the amount of \$5,456.59, plus pre-award interest at \$41.89 per day, from July 2, 2019 to date of the award, plus post-award interest at the legal rate; costs, expenses and reasonable attorneys' fees associated with Claimants' collection efforts on the Notes, including but not limited to those incurred by Claimants in connection with this arbitration; and such other and further relief as the Panel deems appropriate.

In the Amended Statement of Claim, Claimants Morgan Stanley and Morgan Stanley Smith Barney Financing LLC requested compensatory damages in the amount of \$337,463.25, plus the total interest due as of Respondent's termination date in the amount of \$5,456.59, plus pre-award interest at \$41.89 per day, from July 2, 2019 to date of the award, plus post-award interest at the legal rate; costs, expenses and reasonable attorneys' fees associated with Claimants' collection efforts on the Notes, including but not limited to those incurred by Claimants in connection with this arbitration; and such other and further relief as the Panel deems appropriate.

In the Statement of Answer and Counterclaim, Respondent requested compensatory damages of \$500,000.00; costs and attorneys' fees; and an award declaring any Employee Promissory Notes be invalid, unenforceable and forgiven.

In the Amended Statement of Answer, Respondent requested that Claimants' Claims be denied.

OTHER ISSUES CONSIDERED AND DECIDED

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

On November 12, 2019, Morgan Stanley Smith Barney FA Notes Holdings LLC withdrew as a Claimant in this matter.

On September 9, 2020, Claimant Morgan Stanley filed a Motion for Sanctions to which no response was filed. On October 7, 2020 the Panel denied Claimants' Motion for Sanctions.

On March 18, 2021 Claimant filed a Motion for Sanctions, to Strike and to Confirm Hearing Dates. On March 26, 2021, Respondent filed a response. On April 2, 2021 Claimant Morgan Stanley filed a Reply in Support of its motion. By Order dated April 27, 2021, the Panel denied Claimant Morgan Stanley's Motion for Sanctions and to Strike and confirmed the July 20 to July 22, 2021 scheduled hearing dates.

On April 19, 2021, Claimant Morgan Stanley filed a Notice of Promissory Note Assignment and Motion to Add Morgan Stanley Smith Barney Financing LLC as a Claimant, to which no response was filed. By Order dated May 21, 2021, the Panel granted Claimant's Notice of Promissory Note Assignment and Motion to Add Morgan Stanley Smith Barney Financing LLC as a Claimant.

On May 7, 2021, Respondent withdrew his Counterclaim. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Counterclaim.

On May 11, 2021, Claimant Morgan Stanley filed a Motion for Sanctions. On May 19, 2021, Respondent filed a response. On June 4, 2021, Respondent filed a second response to the motion. On June 8, 2021, Claimants Morgan Stanley and Morgan Stanley Smith Barney Financing LLC filed a reply in support of the Motion for Sanctions. By Order dated June 18, 2021, the Panel granted the Motion for Sanctions and awarded attorneys' fees in the amount of \$2,958.00 against Respondent for Claimant Morgan Stanley's preparation and prosecution of the Motion for Sanctions.

On July 15, 2021, the parties filed a Joint Motion for Entry of a Stipulated Award. On July 16, 2021, the Panel granted the motion.

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

AWARD

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for entry of a Stipulated Award, and the written stipulation thereto, the Panel grants the motion and enters this Stipulated Award granting the following relief:

1. Respondent is liable for and shall pay to Claimants Morgan Stanley and Morgan Stanley Smith Barney Financing LLC the sum of \$337,463.26 in compensatory damages.
2. Respondent is liable for and shall pay to Claimants Morgan Stanley and Morgan Stanley Smith Barney Financing LLC accrued interest in the amount of \$44,315.23.

3. Respondent is liable for and shall pay to Claimants Morgan Stanley and Morgan Stanley Smith Barney Financing LLC interest at the rate of \$50.68 per day from July 21, 2021 until all sums due are fully paid.
4. Respondent is liable for and shall pay to Claimants Morgan Stanley and Morgan Stanley Smith Barney Financing LLC the sum of \$78,498.53 in attorneys' fees and costs pursuant to the terms of the promissory notes.
5. Any and all claims for relief not specifically addressed herein are denied.

FEES

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

Filing Fees

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

Initial Claim Filing Fee	=\$ 2,125.00
Counterclaim Filing Fee	=\$ 1,425.00

**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, Claimant Morgan Stanley is assessed the following:

Member Surcharge	=\$ 1,900.00
Member Process Fee	=\$ 3,750.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

July 20-22, 2021, postponement requested by the parties.	=\$ 1,125.00
<hr/>	
Total Postponement Fees	=\$ 1,125.00

The Panel has assessed the total postponement fees to Respondent.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

July 20-22, 2021, cancellation requested by the parties	=\$ 1,800.00
---	--------------

Total Last-Minute Cancellation Fees = \$ 1,800.00

The Panel has assessed the total last-minute 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 a single Arbitrator @ \$450.00/session = \$ 450.00
Pre-Hearing Conference: April 23, 2021 1 session

Four (4) pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 4,500.00
Pre-Hearing Conferences: January 6, 2020 1 session
October 6, 2020 1 session
November 10, 2020 1 session
June 16, 2021 1 session

Decision on the papers: = \$ 300.00

Total Hearing Session Fees = \$ 5,250.00

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

Joseph J. Dougherty	-	Public Arbitrator, Presiding Chairperson
Mark H. Stein	-	Public Arbitrator
Edward Turner Borer	-	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

Joseph J. Dougherty

Joseph J. Dougherty
Public Arbitrator, Presiding Chairperson

07/20/2021

Signature Date

Mark H. Stein

Mark H. Stein
Public Arbitrator

07/20/2021

Signature Date

Edward Turner Borer

Edward Turner Borer
Non-Public Arbitrator

07/20/2021

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.

July 22, 2021

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