

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Stewart Platt Miller

Case Number: 20-00708

vs.

Respondents  
Morgan Stanley  
Bennett Charles Firestein

Hearing Site: New York, New York

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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: Associated Person vs. Member and Associated Person

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Stewart Platt Miller: Mark S. Pincus, Esq., Pincus Law LLC, New York, New York.

For Respondent Morgan Stanley: Philip J. Campisi, Esq., Westerman Ball Ederer Miller Zucker & Sharfstein, LLP, Uniondale, New York.

Respondent Bennett Charles Firestein did not enter an appearance.

**CASE INFORMATION**

Statement of Claim filed on or about: March 2, 2020.

Amended Statement of Claim filed on or about: May 20, 2020.

Stewart Platt Miller signed the Submission Agreement: May 20, 2020.

Statement of Answer filed by Respondent Morgan Stanley on or about: August 6, 2020.

Morgan Stanley signed the Submission Agreement: August 6, 2020.

Bennett Charles Firestein did not submit a Statement of Answer nor sign the Submission Agreement.

### **CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following cause of action: expungement of Form U5/internal review and termination based on the defamatory nature of the entries.

In the Statement of Answer, Respondent Morgan Stanley denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of Morgan Stanley's Form U5's "Yes" answers to Questions 7B and 7F(1) as defamatory, and replacing them with "No" answers; expungement of Morgan Stanley's Form U5's Internal Review and Termination Disclosure Reporting Pages as defamatory, and deleting them entirely; an award that the expungement be applied to all future disclosures; and an award reimbursing Claimant for the costs, disbursements, and attorneys' fees incurred in bringing these claims.

In the Statement of Answer, Respondent Morgan Stanley requested that Claimant's Statement of Claim be dismissed; declaration that Morgan Stanley is not required to expunge the disclosure it made in Claimant's Form U5; an award for the costs, disbursements, attorneys' fees, and other expenses incurred by Morgan Stanley in this arbitration; and such other and further relief as the Panel deems just, proper, and equitable.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrators acknowledge having read the pleadings and other materials filed by the parties.

The Statement of Claim filed on March 2, 2020 was not served on the Respondents and therefore not considered by the Arbitrators. In the Amended Statement of Claim, Claimant withdrew Bennett Charles Firestein as a named Respondent.

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

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and any post-hearing submissions, the Arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's request for expungement of Stewart Platt Miller's (CRD Number 6144781) Form U5 filed by Morgan Stanley on May 5, 2017 and from his registration records maintained by the CRD is denied.
2. Respondent is liable for and shall pay to Claimant \$375.00 to reimburse Claimant for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.
3. Any and all claims for relief not specifically addressed herein are denied.

## FEES

Pursuant to the Code, the following fees are assessed:

### Filing Fees

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

Initial Claim Filing Fee	=\$ 1,575.00
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*\*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	=\$ 1,900.00
Member Process Fee	=\$ 3,750.00

### Hearing Session Fees and Assessments

The Arbitrators have 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: November 10, 2020      1 session	
One (1) pre-hearing session with the Panel @ \$1,125.00/session	=\$ 1,125.00
Pre-Hearing Conference: October 20, 2020      1 session	
Four (4) hearing sessions @ \$1,125.00/session	=\$ 4,500.00
Hearings: April 27, 2021      2 sessions	
April 28, 2021      2 sessions	

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Total Hearing Session Fees	=\$ 6,075.00
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The Arbitrators have assessed the total hearing session fees to Respondent Morgan Stanley.

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

**ARBITRATION PANEL**

Madelon M. Rosenfeld	-	Public Arbitrator, Presiding Chairperson
Steven A. Harris	-	Public Arbitrator
Neil A. Sussman	-	Non-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**

***Madelon M. Rosenfeld***

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Madelon M. Rosenfeld  
Public Arbitrator, Presiding Chairperson

**05/06/2021**

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

***Steven A. Harris***

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Steven A. Harris  
Public Arbitrator

**05/06/2021**

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

***Neil A. Sussman***

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Neil A. Sussman  
Non-Public Arbitrator

**05/05/2021**

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

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May 06, 2021

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