

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Andrew McLean
Susan McLean

Case Number: 20-01391

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: Customers vs. Member

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimants Andrew McLean, and Susan McLean: Lars K. Soreide, Esq., Soreide Law Group, PLLC, Pompano Beach, Florida*.

For Respondent Morgan Stanley: Trae D. Meyr, Esq., Morgan Stanley, St. Petersburg, Florida.

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

CASE INFORMATION

Statement of Claim filed on or about: May 4, 2020.

Andrew McLean signed the Submission Agreement: May 4, 2020.

Susan McLean signed the Submission Agreement: May 4, 2020.

Statement of Answer filed by Respondent on or about: July 10, 2020.

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

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: negligence; breach of fiduciary duty; and negligent supervision. The causes of action relate to Claimants' oil and gas investments.

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, Claimants requested an award against Respondent for \$500,000.00 in compensatory damages; interest; costs; punitive damages; attorney's fees; and any further relief the Panel deems just and proper.

In the Statement of Answer, Respondent requested that the Panel dismiss the Statement of Claim in its entirety, with prejudice; deny any recovery by Claimants against Respondent; assess all forum fees and costs sole against Claimants; order an expungement of the Central Registration Depository ("CRD") registration records relating to this claim for Unnamed Party Jeffrey Harold Leach; and award Respondent any such other relief as the Panel determines is appropriate.

Respondent filed a request for expungement, on behalf of Unnamed Party Jeffrey Harold Leach, of all references to this matter from CRD registration records. Please see the Other Issues Considered and Decided section of this Award for more information.

OTHER ISSUES CONSIDERED AND DECIDED

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

On May 18, 2021 and July 13, 2021, Claimants filed Notices of Settlement and Dismissal with Prejudice. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On July 16, 2021, Respondent filed a Motion for Expungement on behalf of Unnamed Party Jeffrey Harold Leach, to which no response was filed.

The Panel conducted a recorded hearing by videoconference on September 21, 2021, so the parties could present oral argument and evidence on Respondent's request for expungement on behalf of Unnamed Party Jeffrey Harold Leach.

Claimants and counsel did not participate in the expungement hearing.

The Panel reviewed Jeffrey Harold Leach's BrokerCheck® Report. The Panel noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence 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 Jeffrey Harold Leach did not contribute to the settlement amount.

In recommending expungement, the Panel relied upon the following documentary or other evidence: the pleadings; the exhibits, including the Quarterly Asset Allocation; and Jeffrey Harold Leach's testimony.

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 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 2074623) from registration records maintained by the CRD for Unnamed Party Jeffrey Harold Leach (CRD Number 3231849) with the understanding that, pursuant to Notice to Members 04-16, Jeffrey Harold Leach 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 finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

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

Claimants' allegations that their investments were overconcentrated in energy, and that their portfolio was not diversified, were contradicted by the testimony of Mr. Leach and the document in the record which described the quarterly asset allocation in their accounts.

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	= \$ 1,425.00
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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 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 @ \$1,125.00/session	= \$	1,125.00
Pre-Hearing Conferences: August 25, 2020	1 session	
One (1) hearing session on expungement request @ \$1,125.00/session	= \$	1,125.00
Hearing: September 21, 2021	1 session	
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Total Hearing Session Fees	= \$	2,250.00

The Panel has assessed \$562.50 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$1,687.50 of the hearing session fees to Respondent, which includes the fees for the expungement hearing.

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

ARBITRATION PANEL

Dora M. Lassinger	-	Public Arbitrator, Presiding Chairperson
Howard S. Quinn	-	Public Arbitrator
Marion F. Posner	-	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

Dora M. Lassinger

Dora M. Lassinger
Public Arbitrator, Presiding Chairperson

09/24/2021

Signature Date

Howard S. Quinn

Howard S. Quinn
Public Arbitrator

09/24/2021

Signature Date

Marion F. Posner

Marion F. Posner
Public Arbitrator

09/24/2021

Signature Date

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September 24, 2021

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