

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

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In the Matter of the Arbitration Between:

Claimants

Judy Block  
Frances Norman Block Trust

Case Number: 20-03487

vs.

Respondents

Morgan Stanley  
Robert Ruffo

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: Customers vs. Member and Associated Person

This case was decided by an all-public panel.

**REPRESENTATION OF PARTIES**

For Claimants Judy Block, and Frances Norman Block Trust: Kevin P. Conway, Esq., Conway & Conway, New York, New York.

For Respondents Morgan Stanley, and Robert Ruffo: Abigail Elrod, Esq., and Irisa Chen, Esq., Morgan Stanley, New York, New York.

\*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: October 9, 2020.

Judy Block signed the Submission Agreement: October 15, 2020.

Frances Norman Block Trust signed the Submission Agreement. October 15, 2020.

Joint Statement of Answer filed by Respondents on or about: December 21, 2020.

Morgan Stanley signed the Submission Agreement: December 21, 2020.

Robert Ruffo signed the Submission Agreement: December 18, 2020.

### **CASE SUMMARY**

In the Statement of Claim, Claimants asserted the following causes of action: unsuitability; breach of contract; breach of fiduciary duty; breach of the duty of good faith and fair dealing; failure to supervise; fraud; misrepresentation and omission; and negligence. The causes of action relate to Exxon stock.

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

### **RELIEF REQUESTED**

In the Statement of Claim, Claimants requested compensatory damages in an amount in excess of \$1,694,750,22 plus interest; costs; attorneys' fees; punitive damages; and such other and further relief as the Arbitrators deem just and fair.

In the Statement of Answer, Respondents requested that the Panel dismiss all claims in the Statement of Claim in their entirety; grant expungement of this matter from the CRD of Robert Ruffo (Occurrence Number 2094317) and award them costs in defense of this proceeding.

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

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

On July 21, 2021, Claimants filed a Notice of Dismissal. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On July 21, 2021, Respondents filed a notice requesting that the Panel keep the current hearing dates on the calendar to hear Respondent Robert Ruffo's outstanding expungement claim.

The Panel conducted a recorded, telephonic hearing on August 10, 2021, so the parties could present oral argument and evidence on Robert Ruffo's request for expungement.

Claimant Judy Block participated in the expungement hearing and opposed the request for expungement.

The Panel reviewed Robert Ruffo'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 Robert Ruffo did not contribute to the settlement amount.

In recommending expungement, the Panel relied upon the following documentary or other evidence: the pleadings; Respondent Robert Ruffo's testimony; Claimant Judy Block's testimony; Respondent Robert Ruffo's BrokerCheck® Report; and the exhibits.

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 2094317) from registration records maintained by the CRD for Respondent Robert Ruffo (CRD Number 1061692) with the understanding that, pursuant to Notice to Members 04-16, Respondent Robert Ruffo 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:

The Arbitrators considered all of the testimony of Claimant Judy Block ("Block") and Respondent Robert Ruffo ("Ruffo"). Block alleged that she directed Ruffo in a telephone call on January 10, 2020 to sell all of her Exxon stock. The Panel decided that there was not sufficient credible evidence that a January 10, 2020 telephone conversation ever took place. Respondent Ruffo produced telephone logs showing his telephone calls and there was no listing of a January 10, 2020 telephone call with Claimant Block. Block testified that she kept written notes of her telephone calls with Ruffo but was not able to produce any such notes for the alleged January 10, 2020 call that she directed Ruffo to sell all of her Exxon stock. Yet, when she did not receive any confirmation or writing reflecting such a sale in the 2 weeks following January 10, 2020, she did not complain to Ruffo or his supervisors.

Block also refers to a January 29, 2020 telephone call with Mr. Ruffo in which she claims she directed him to sell all of her Exxon stock. Mr. Ruffo's telephone log does show a January 29, 2020 call with Block. Ruffo denies that Block directed him to sell all of her Exxon stock, as he would have followed any such instruction. Again, the Panel found Ms. Block's alleged instruction to sell the Exxon stock "clearly erroneous" as she could not produce any notes reflecting such instructions, although she testified that she regularly kept such notes. Also, although Block claims that she made a direction to sell, she never complained to Ruffo, his supervisor or anyone else at Morgan Stanley for more than seven weeks that her Exxon shares were not sold. On March 23, 2020, Ms. Block

directed Mr. Ruffo to sell her Exxon shares and he promptly did so. For the foregoing reasons, and Ruffo’s credible testimony that he always followed Block’s directions, the Panel concluded that Block’s claim that she directed Ruffo and to sell all of her Exxon shares on January 10, 2020 and again on January 29, 2020 was “clearly erroneous.”

2. 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 assessed a filing fee\* for each claim:

Initial Claim Filing Fee	= \$ 2,000.00
Expungement Filing Fee	= \$ 1,575.00

*\*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

**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:

Two (2) pre-hearing sessions with a single Arbitrator @ \$450.00/session	= \$ 900.00
Pre-Hearing Conference: April 22, 2021	1 session
June 4, 2021	1 session

One (1) pre-hearing session with the Panel @ \$1,400.00/session	= \$ 1,400.00
Pre-Hearing Conference: February 8, 2021	1 session

One (1) hearing session on expungement request @ \$1,400.00/session	= \$ 1,400.00
Hearing: August 10, 2021	1 session

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Total Hearing Session Fees	= \$ 3,700.00
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The Panel has assessed \$1,150.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$1,150.00 of the hearing session fees jointly and severally to Respondents.

The Panel has assessed the \$1,400.00 hearing session fees for the August 10, 2021 expungement hearing to Respondent Robert Ruffo.

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

**ARBITRATION PANEL**

Paul C. Kurland	-	Public Arbitrator, Presiding Chairperson
Laura Carraher	-	Public Arbitrator
Rory M. McLaughlin	-	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**

***Paul C. Kurland***

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Paul C. Kurland  
Public Arbitrator, Presiding Chairperson

**09/10/2021**

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Signature Date

***Laura Carraher***

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Laura Carraher  
Public Arbitrator

**09/10/2021**

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

***Rory M. McLaughlin***

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Rory M. McLaughlin  
Public Arbitrator

**09/10/2021**

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Signature Date

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September 13, 2021

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