

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Darlene K. Brush

Case Number: 20-03530

vs.

Respondent
Preston Schoenfeld

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. Associated Person

This case was administered under the Special Proceeding option for simplified cases.

REPRESENTATION OF PARTIES

Claimant Darlene K. Brush appeared pro se.

For Respondent Preston Schoenfeld: Scott P. Bell, Esq., and Jeremy Winer, Esq., Morgan Stanley, Baltimore, Maryland.

CASE INFORMATION

Statement of Claim filed on or about: October 14, 2020.

Darlene K. Brush signed the Submission Agreement: October 20, 2020.

Statement of Answer filed by Respondent on or about: December 14, 2020.

Preston Schoenfeld signed the Submission Agreement: February 1, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of trust, failure to execute, and negligence. The causes of action relate to unspecified securities in Claimant's traditional IRA retirement account.

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 compensatory damages in the amount of \$16,397.00.

In the Statement of Answer, Respondent requested that Claimant's claim be dismissed in its entirety; and expungement of all references relating to this matter (Occurrence Number 2076893) from Respondent's Central Registration Depository ("CRD") registration records.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

The Arbitrator reviewed Preston Schoenfeld's BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence the CRD.

The Arbitrator noted that the dispute related to Occurrence Number 2076893 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings; the exhibits; Preston Schoenfeld's BrokerCheck® Report; and testimonies from both parties.

AWARD

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

1. Claimant's claim is denied in its entirety.
2. The Arbitrator recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2076893) from registration records maintained by the CRD for Respondent Preston Schoenfeld (CRD# 4627512) with the understanding that, pursuant to Notice to Members 04-16, Respondent Preston Schoenfeld 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 Arbitrator 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 Arbitrator has made the above Rule 2080 findings based on the following reasons:

At the hearing, Claimant did not present any data supporting the claims. There was no evidence or legal basis for any wrongdoing by Respondent. Therefore, the Arbitrator determined that expungement is warranted.

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	= \$	425.00
Expungement Filing Fee	= \$	1,575.00

**The filing fee is made up of a non-refundable and a refundable portion.*

FINRA Dispute Resolution Services previously deferred Claimant’s filing fee of \$425.00. Upon conclusion of the matter, the Arbitrator determined to waive the \$125.00 non-refundable portion of the fee.

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 Respondent’s firm, Morgan Stanley is assessed the following:

Member Surcharge	= \$	450.00
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Hearing Session Fees and Assessments

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator, including a pre-hearing conference with the Arbitrator, 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: May 4, 2021	1 session	
One (1) hearing session @ \$450.00/session	= \$	450.00
Hearing: November 18, 2021	1 session	
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Total Hearing Session Fees	= \$	900.00

The Arbitrator has assessed \$450.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$450.00 of the hearing session fees to Respondent.

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

ARBITRATOR

Richard Lee Mansdoerfer, Jr. - Sole 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.

Arbitrator's Signature

Richard Lee Mansdoerfer, Jr.

Richard Lee Mansdoerfer, Jr.
Sole Public Arbitrator

12/08/2021

Signature Date

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December 08, 2021

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